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Rules and Regulations

Federal Register

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Monday, December 11, 2017

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 900 and 1200

[Doc. No. AMS–SC–17–0081]

RIN 0581–AD74

Rules of Practice and Procedures To Formulate or Amend a Marketing Agreement, a Marketing Order, or Certain Research and Promotion Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) of the United States Department of Agriculture (USDA) is adopting a final rule to amend the definition of ''judge'' in the rules of practice and procedure to formulate or amend a marketing agreement, marketing order, or certain research and promotion orders. The new definition adds a presiding official appointed by the Secretary, as well as an administrative law judge, as an official who may preside over the rulemaking hearing.

DATES: *Effective Date:* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: William Richmond, Acting Chief of Staff, AMS, 1400 Independence Avenue SW., Washington, DC 20250, (202) 720–5115.

SUPPLEMENTARY INFORMATION: AMS is issuing this final rule to amend the definition of ''judge'' in the rules of practice and procedure to formulate or amend a marketing agreement, marketing order, or certain research and promotion orders under 7 CFR part 900 and 1200.

AMS has rules of practice and procedure to formulate marketing agreements and marketing orders under 7 CFR part 900. Those rules of practice and procedure are applicable to proceedings under the Agricultural Marketing Agreement Act of 1937, as amended [50 Stat. 246]. In addition, rules of practice and procedure also exist for proceedings under the Cotton Research and Promotion Act, as amended [7 U.S.C. 2101–2119], the Egg Research and Consumer Information Act, as amended [7 U.S.C. 2701–2718], the Pork Promotion, Research, and Consumer Information Act [7 U.S.C. 4801–4819], and the Potato Research and Promotion Act, as amended [7 U.S.C. 2611–2627]. Those rules appear under 7 CFR part 1200.

The Administrative Procedure Act (APA) prescribes general procedures for agency rulemaking. See 5 U.S.C. 553. For rulemaking hearings, the APA provides ''there shall preside at the taking of evidence (1) the agency; (2) one or more members of the body which compromise the agency; or (3) one or more administrative law judges appointed under section 3105 of this title.'' 5 U.S.C. 556(b). Under both 7 CFR parts 900 and 1200, as defined, ''judge'' is limited to ''any administrative law judge appointed pursuant to 5 U.S.C. 3105, and assigned to conduct the proceeding.'' 7 CFR 900.2(d), 900.51(d), 1200.2(f), and 1200.51(g). In order to better align with the provisions the APA, USDA is amending the definition of ''judge'' in both 7 CFR parts 900 and 1200 to include a presiding official appointed by the Secretary. This revision to the definition of ''judge'' will provide AMS with the flexibility to have a presiding official assigned to a hearing in the event that an ALJ is not available for the assignment or as circumstances warrant.

5 U.S.C. 553, 601, and 804

This final rule establishes agency rules of practice and procedure. Under the APA, prior notice and opportunity for comment are not required for the promulgation of agency rules of practice and procedure. 5 U.S.C. 553(b)(3)(A). Only substantive rules require publication 30 days prior to their effective date. 5 U.S.C. 553(d). Moreover, this final rule is necessary to carry out an upcoming hearing on an emergency amendment to the Florida Federal Milk Marketing Order as part of the Government's response to hurricane relief efforts. Therefore, this final rule is effective upon publication in the **Federal Register**.

Furthermore, under 5 U.S.C. 804, this rule is not subject to Congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. In addition, because prior notice and opportunity for comment are not required to be provided for this final rule, this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Executive Orders 12866 and 13563

This rule does not meet the definition of a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563. Because this rule is not a significant regulatory action, it has not been reviewed by the Office of Management and Budget.

Executive Order 13771

Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements of Executive Order 13771. *See* OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative proceedings that must be exhausted before parties may file suit in court challenging this rule.

Executive Order 13132

This rule has been reviewed in accordance with the requirements of Executive Order 13132, Federalism. The review reveals that this rule does not contain policies with federalism implications sufficient to warrant federalism consultation under Executive Order 13132.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on tribal governments and would not have significant tribal implications.

Paperwork Reduction Act

This rule contains no information collections or recordkeeping requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*].

List of Subjects

7 CFR Part 900

Administrative practice and procedure, Freedom of information, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 1200

Administrative practice and procedure, Advertising, Blueberries, Consumer information, Cotton, Dairy, Eggs, Fluid milk, Honey, Marketing agreements, Mushrooms, Peanuts, Popcorn, Pork, Potatoes, Promotion, Reporting and recordkeeping requirements, Soybeans, Watermelons.

Accordingly, 7 CFR parts 900 and 1200 are amended to as follows:

PART 900—GENERAL REGULATIONS

■ 1. The authority citation for part 900 continues to read as follows:

Authority: 7 U.S.C. 601–674 and 7 U.S.C. 7401.

Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate Marketing Agreements and Marketing Orders

■ 2. The authority citation for this subpart continues to read as follows:

Authority: 7 U.S.C. 610.

■ 3. In § 900.2, revise paragraph (d) to read as follows:

§ 900.2 Definitions.

* * * * *

(d) The term *judge* means any administrative law judge appointed pursuant to 5 U.S.C. 3105 or any presiding official appointed by the Secretary, and assigned to conduct the proceeding.

* * * * *

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Marketing Orders

■ 4. The authority citation for this subpart continues to read as follows:

Authority: 7 U.S.C. 608c.

■ 5. In § 900.51 revise paragraph (d) to read as follows:

§ 900.51 Definitions.

* * * * *

(d) The term *judge* means any administrative law judge appointed pursuant to 5 U.S.C. 3105 or any presiding official appointed by the Secretary, and assigned to conduct the proceeding.

* * * * *

PART 1200—RULES OF PRACTICE AND PROCEDURE GOVERNING PROCEEDINGS UNDER RESEARCH, PROMOTION, AND INFORMATION PROGRAMS

■ 6. The authority for part 1200 continues to read as follows:

Authority: 7 U.S.C. 2111, 2620, 2713, 4509, 4609, 4814, 4909, 6106, 6306, 6410, 7418, and 7486.

Subpart A—Rules of Practice and Procedure Governing Proceedings To Formulate and Amend an Order

■ 7. The authority for subpart A continues to read as follows:

Authority: 7 U.S.C. 2103, 2614, 2704, and 4804.

■ 8. In § 1200.2, revise paragraph (f) to read as follows:

§ 1200.2 Definitions.

* * * * *

(f) *Judge* means any administrative law judge appointed pursuant to 5 U.S.C. 3105 or any presiding official appointed by the Secretary, and assigned to conduct the proceeding.

* * * * *

Subpart B—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Research, Promotion and Information Programs

■ 9. The authority for subpart B continues to read as follows:

Authority: 7 U.S.C. 2111, 2620, 2713, 4509, 4609, 4814, 4909, 6008, 6106, 6306, 6410, 6807, 7106, 7418, 7486, and 7806.

■ 10. In § 1200.51, revise paragraph (g) to read as follows:

§ 1200.51 Definitions.

* * * * *

(g) *Judge* means any administrative law judge appointed pursuant to 5 U.S.C. 3105 or any presiding official appointed by the Secretary, and assigned to conduct the proceeding.

* * * * *

Dated: December 7, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–26718 Filed 12–8–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0625; Product Identifier 2016–NM–089–AD; Amendment 39–19118; AD 2017–25–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–22–08, which applied to all Airbus Model A318 and A319 series airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2014–22–08 required revising the maintenance or inspection program to incorporate new or revised airworthiness limitation requirements. This new AD requires revising the maintenance or inspection program to incorporate new or revised airworthiness limitation requirements, and removes airplanes from the applicability. This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 16, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 17, 2014 (79 FR 67042, November 12, 2014).

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://*

www.airbus.com. You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0625.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0625; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–22–08, Amendment 39–18013 (79 FR 67042, November 12, 2014) (''AD 2014–22–08''). AD 2014–22–08 applied to all Airbus Model A318 and A319 series airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on June 27, 2017 (82 FR 29016). The NPRM was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. The NPRM proposed to revise the maintenance or inspection program to incorporate new or revised airworthiness limitation requirements, and to remove airplanes from the applicability. We are issuing this AD to prevent a safety-significant latent failure (that is not annunciated), which, in combination with one or more other specific failures or events, could result in a hazardous or catastrophic failure condition.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0092, dated May 13, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> The airworthiness limitations for Airbus A320 family aeroplanes are currently defined and published in Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) documents. The airworthiness limitations applicable to the Certification Maintenance Requirements (CMR), which are approved by EASA, are published in ALS Part 3.
>
> The instructions contained in the ALS Part 3 have been identified as mandatory actions for continued airworthiness. Failure to comply with these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2013–0148 [which corresponds to FAA AD 2014–22–08] to require accomplishment of all maintenance tasks as described in ALS Part 3 at Revision 01. The new ALS Part 3 Revision 03 (hereafter referred to as 'the ALS' in this [EASA] AD) includes new and/or more restrictive requirements.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2013–0148, which is superseded, and requires accomplishment of all maintenance tasks as described in the ALS.

The unsafe condition is a safety-significant latent failure (that is not annunciated), which, in combination with one or more other specific failures or events, could result in a hazardous or catastrophic failure condition. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0625.

Comments

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

Request To Revise Cost Estimate

Delta Airlines (DAL) requested that we revise the cost estimate of the proposed AD. DAL pointed out that revising the maintenance or inspection program to incorporate new or revised airworthiness limitation requirements is a fleet-based effort. DAL stated that it estimates the cost to be 200 work-hours per operator, which would total $17,000 per operator. DAL also stated that each operator would incur a similar cost that is independent of fleet size.

We disagree with the request to revise the cost estimate. The cost estimate in ADs is based on an estimated cost per airplane regardless of any operator's fleet size, which varies by operator. Additionally, the cost estimate describes only the direct costs and time necessary to perform the specific actions required by this AD. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs such as the time necessary for planning or time necessitated by other administrative actions. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate. We have not changed this AD in this regard.

Requests To Revise Previously Approved Alternative Method of Compliance (AMOC) Provisions

DAL requested that we revise paragraph (k)(1)(ii) of the proposed AD from approving previously approved AMOCs for AD 2014–22–08 as AMOCs for the corresponding provisions of paragraph (g) of the proposed AD, to being approved for the corresponding provisions of paragraph (i) of the proposed AD. DAL pointed out that this change would allow the AMOCs previously approved for AD 2014–22–08 to be applicable to both paragraphs (g) and (i) of the proposed AD, eliminating the need for new AMOCs to address issues identified in AD 2014–22–08 and carried over to the proposed AD.

Spirit Airlines noted that, based on paragraph (k)(1)(ii) of the proposed AD, AMOCs approved for AD 2014–22–08 would not be valid for the new requirements of paragraph (i) of the proposed AD.

We agree that certain AMOCs approved for AD 2014–22–08 are approved for the corresponding provisions of this AD. We have added paragraph (k)(1)(iii) to this AD to specify that the certain previous AMOCs that are approved for AD 2014–22–08 are approved as AMOCs for the corresponding provisions of paragraph (i) of this AD. The previous AMOCs include Airbus A318/A319/A320/A321 ALS Part 3, CMR, Revision 05, dated April 6, 2017.

Request To Cite Latest Revision of the Service Information

Spirit Airlines requested that we refer to Revision 05, dated April 6, 2017, of

Airbus A318/A319/A320/A321 ALS Part 3, CMR, (''ALS Part 3'') in paragraph (i) of this AD (we referred to Airbus A318/A319/A320/A321 ALS Part 3, CMR, Revision 03, dated December 21, 2015 (''Airbus A318/A319/A320/A321 ALS Part 3, Revision 03''), as the appropriate source of service information for accomplishing the revision specified in paragraph (i) of the proposed AD).

We do not agree with the request to specify the revised service information in this final rule. The revised service information includes new and more restrictive items and is applicable to additional airplanes. To require incorporation of the revised service information, we would have to issue a supplement NPRM for public comment and would incur undue delay in issuance of the final rule. In addition, EASA has not published an AD mandating Revision 05, dated April 6, 2017, of ALS Part 3. We are considering further rulemaking to supersede this final rule to require incorporating the revised service information. We have made no change to this AD in this regard.

Request To Allow the of Use Later Approved Revisions of the Service Information

DAL requested that we allow the use of later approved revisions of Airbus A318/A319/A320/A321 ALS Part 3. DAL stated that permitting later approved revisions would reduce the number of requests for an AMOC. DAL also mentioned that Airbus has requested approval of Variation 5.1, of ALS Part 3, as an AMOC to AD 2014–22–08.

We do not agree with DAL's request to allow the use of later approved revisions of Airbus A318/A319/A320/A321 ALS Part 3. We cannot use the phrase, ''or later approved revisions,'' in an AD when referring to the service document because doing so violates Office of the Federal Register (OFR) regulations for approval of materials ''incorporated by reference'' in rules. However, as stated previously, we have revised this AD to specify that AMOCs approved for AD 2014–22–08 are approved for the corresponding provisions of this AD.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 03, dated December 21, 2015. This service information describes maintenance instructions and airworthiness limitations, including updated inspections and intervals, to be incorporated into the maintenance or inspection program. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1,032 airplanes of U.S. registry.

The actions required by AD 2014–22–08, and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2014–22–08 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $87,720, or $85 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–22–08, Amendment 39–18013 (79 FR 67042, November 12, 2014), and adding the following new AD:

2017–25–04 Airbus: Amendment 39–19118; Docket No. FAA–2017–0625; Product Identifier 2016–NM–089–AD.

(a) Effective Date

This AD is effective January 16, 2018.

(b) Affected ADs

This AD replaces AD 2014–22–08, Amendment 39–18013 (79 FR 67042, November 12, 2014) (''AD 2014–22–08'').

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before December 21, 2015.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to prevent a safety-significant latent failure (that is not annunciated), which, in combination with one or more other specific failures or events, could result in a hazardous or catastrophic failure condition.

(f) Compliance

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

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

This paragraph restates the requirements of paragraph (g) of AD 2014–22–08, with new terminating action. Within 30 days after December 17, 2014 (the effective date of AD 2014–22–08), revise the maintenance or inspection program, as applicable, by incorporating Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 1, dated June 15, 2012. The initial compliance time for accomplishing the tasks specified in Airbus A318/A319/A320/A321 ALS Part 3, CMR, Revision 1, dated June 15, 2012, is at the applicable time specified in the Record of Revisions of Airbus A318/A319/A320/A321 ALS Part 3, CMR, Revision 1, dated June 15, 2012; or within 30 days after December 17, 2014 (the effective date of AD 2014–22–08), whichever occurs later. Accomplishing the actions specified in paragraph (i) of this AD terminates the requirements of this paragraph.

(h) Retained Provision Regarding Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2014–22–08, with a new exception. Except as required by paragraph (i) of this AD, after accomplishing the revisions required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 03, dated December 21, 2015 (''Airbus A318/A319/A320/A321 ALS Part 3, Revision 03''). The initial compliance time for accomplishing the tasks specified in Airbus A318/A319/A320/A321 ALS Part 3, Revision 03, is at the applicable time specified in Airbus A318/A319/A320/A321 ALS Part 3, Revision 03, or within 30 days after the effective date of this AD, whichever occurs later. Accomplishing the actions specified in this paragraph terminates the requirements of paragraph (g) of this AD.

(j) New Provision Regarding No Alternative Actions or Intervals

After the action required by paragraph (i) of this AD has been done, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2014–22–08 are approved as AMOCs for the corresponding provisions of paragraph (g) this AD.

(iii) AMOCs approved previously for AD 2014–22–08, which are included in the FAA AMOC letters specified in paragraphs (k)(1)(iii)(A) and (k)(1)(iii)(B), are approved as AMOCs for the corresponding provisions of paragraph (i) of this AD.

(A) FAA AMOC letter ANM–116–17–002R1, dated November 14, 2016.

(B) FAA AMOC letter ANM–116–17–323, dated June 12, 2017.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0092, dated May 13, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0625.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 16, 2018.

(i) Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 03, dated December 21, 2015.

(ii) Reserved.

(4) The following service information was approved for IBR on December 17, 2014 (79 FR 67042, November 12, 2014).

(i) Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 1, dated June 15, 2012.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on November 29, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26364 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0556; Product Identifier 2016–NM–098–AD; Amendment 39–19119; AD 2017–25–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–23–10, which applied to all Airbus Model A318 series airplanes; Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2012–23–10 required modifying the affected slide rafts. This AD retains the requirements of AD 2012–23–10. This AD also requires replacing each escape slide pack assembly having a certain part number with a new escape slide pack assembly. This AD was prompted by reports of the escape raft inflation system not deploying when activated due to the rotation of the cable guide in a direction that resulted in jamming of the inflation control cable. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 16, 2018.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of December 31, 2012 (77 FR 70369, November 26, 2012).

ADDRESSES: For Airbus service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* For Zodiac Aerospace service information identified in this AD, contact Air Cruisers, Cage Code 70167, 1747 State Route 34, Wall Township, NJ 07727–3935; telephone: (732) 681–3527; Internet: *http://www.zodiacaerospace.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0556.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA 2017–0556; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–23–10, Amendment 39–17266 (77 FR 70369, November 26, 2012) (''AD 2012–23–10''). AD 2012–23–10 applied to all Airbus Model A318 series airplanes; Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on June 23, 2017 (82 FR 28599). The NPRM was prompted by reports of the escape raft inflation system not deploying when activated due to the rotation of the cable guide in a direction that resulted in jamming of the inflation control cable.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0043, dated March 4, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

> Two occurrences were reported on Airbus A320 family aeroplanes where the escape slide raft inflation system did not deploy when activated. This was due to the rotation of the cable guide in a direction, which resulted in jamming of the inflation control cable. Additionally, one case was reported where the system did not deploy properly due to a cracked inflation hose fitting. Investigation conducted by Air Cruisers Company [Zodiac Aero Evacuation Systems], the slide raft manufacturer, showed that the hose fitting could be subject to a bending moment, if improperly packed. Consequently, the hose fitting could separate from the reservoir and the inflation of the slide raft would be impaired.
>
> This condition, if not corrected, could delay the evacuation from the aeroplane in case of emergency, possibly resulting in injury to the occupants.
>
> To address this potential unsafe condition, DGAC France issued AD F–2004–072 [which correlates with FAA AD 2004–26–07, Amendment 39–13919 (70 FR 1176, January 6, 2005)], to introduce an inflation hose retainer preventing an incomplete inflation of emergency escape slides, which could delay passenger evacuation, and EASA issued AD 2011–0160 (later revised twice) to require modification of the affected slide rafts or replacement thereof with modified units.
>
> Since EASA AD 2011–0160R2 [which correlates with FAA AD 2012–23–10 and was issued as a stand-alone, non-superseding AD] was issued, Air Cruisers [Zodiac Aero Evacuation Systems] developed a modification of the slide and slide/raft, part of the escape slide pack assemblies, to improve its deployment. Modified slides and slide/rafts are identified by a different Part Number (P/N); consequently, also the escape slide pack assemblies are identified by a different P/N.
>
> For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD F–2004–072 (EASA approval 2004–5335) and EASA AD 2011–0160R2, which are superseded, and requires installation of modified escape slide pack assemblies.
>
> Appendix 1 of this [EASA] AD provides a comprehensive list of escape slide pack assemblies P/N that, at the issue date of the [EASA] AD, are not approved for further installation on any aeroplane.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA 2017–0556.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments

received on the NPRM and the FAA's response to each comment. The Air Line Pilots Association, International supported the NPRM.

Request To Extend the Compliance Time

United Airlines (UAL) requested that the compliance time in the proposed AD be extended from 36 months to 42 months. UAL stated that this will allow sufficient time to purge the stock and order parts from the supplier.

We disagree with the commenter's request. UAL has not provided suitable rationale to justify that extending the compliance time will ensure the safety of the affected fleet. In developing the appropriate compliance time for this action, we considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of this modification. We have determined that 36 months will ensure an acceptable level of safety and provide sufficient time to order parts and accomplish the required modification. We have not changed this AD in this regard.

Request To Allow Interchangeable Parts

Delta Airlines (DAL) requested an allowance for interchangeable parts. DAL stated that paragraph (l) of the proposed AD specifies the replacement of ''old'' escape slide packs with corresponding ''new'' escape slide packs. DAL stated that paragraph (l) of the proposed AD does not allow the replacement of an ''old'' slide pack with an alternative ''new'' slide pack that might be fully interchangeable with the one that is mandated. DAL commented that, for example, an airplane with a part number (P/N) D30664–505 slide pack already installed must be replaced with a P/N D30664–705 slide pack. DAL stated that, however, P/N D30664–705 and P/N D30664–709 have incorporated Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 1, dated September 18, 2015, and are fully interchangeable on DAL airplanes. DAL also commented that paragraph (l) of the proposed AD limits operational flexibility for accomplishing the intent of the NPRM.

We disagree with the commenter's request because Airbus has defined the specific configuration of the pack assemblies that mitigate the risk addressed in this AD. We are not aware of any data that substantiates the interchanging of those parts referenced in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, except as provided in paragraph (o)(3) of this AD. Operators may request approval of an alternative method of compliance (AMOC) supported by appropriate substantiating data, under the provisions of paragraph (q)(1) of this AD. We have not changed this AD in this regard.

Request for Means of Compliance

UAL requested that operators be allowed to demonstrate compliance by means of a technical records review for the accomplishment of the related Zodiac Aero Evacuation Systems service information.

We contacted UAL to clarify their request. Based on UAL's clarification, we concluded that UAL is requesting the accomplishment of a records review as an acceptable method for demonstrating compliance to the modification of spare parts specified in paragraph (m)(2) of this AD. We agree with UAL that a records review can be used to verify the modification specified in paragraph (m)(2) of this AD has been done as specified in the Zodiac Aero Evacuation Systems service information identified in that paragraph. We have not changed this AD in this regard.

Request To Use the Latest Service Information

UAL stated that it would like to highlight that Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 1, dated September 18, 2015; and Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, Revision 1, dated September 18, 2015, are now at Revision 2. UAL also commented that Airbus Service Bulletin A320–25–1B82, Revision 01, dated December 10, 2015, is at Revision 2.

We infer that UAL is requesting that we use the latest service information in this AD. We agree with the commenter's request and have revised paragraphs (m)(1)(ii) and (m)(2) of this AD accordingly. We have also revised paragraph (p) of this AD to give credit for previous actions accomplished before the effective date of this AD using earlier versions of the service information.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information, which describes procedures for replacing certain escape slide pack assemblies. These documents are distinct since they apply to different airplane models in different configurations.

- Service Bulletin A320–25–1B81, Revision 01, dated December 10, 2015.
- Service Bulletin A320–25–1B82, Revision 02, dated July 6, 2017.
- Service Bulletin A320–25–1B83, Revision 01, dated December 10, 2015.
- Service Bulletin A320–25–1B84, Revision 01, dated December 10, 2015.

Zodiac Aerospace has issued Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 2, dated April 29, 2016; and Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, Revision 2, dated September 1, 2016. This service information describes procedures for modification of the escape slide pack. These documents are distinct since they apply to different airplane models in different configurations.

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

Costs of Compliance

We estimate that this AD affects 959 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification and installation (retained actions from AD 2012–23–10).	19 work-hours × $85 per hour = $1,615	$341	$1,956	$1,875,804
Replacement and modification (new action) ..	6 work-hours × $85 per hour = $510	0	510	489,090

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–23–10, Amendment 39–17266 (77 FR 70369, November 26, 2010), and adding the following new AD:

2017–25–05 Airbus: Amendment 39–19119; Docket No. FAA 2017–0556; Product Identifier 2016–NM–098–AD.

(a) Effective Date

This AD is effective January 16, 2018.

(b) Affected ADs

This AD replaces AD 2012–23–10, Amendment 39–17266 (77 FR 70369, November 26, 2012) (''AD 2012–23–10'').

(c) Applicability

This AD applies to all Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports of the escape raft inflation system not deploying when activated due to the rotation of the cable guide in a direction which resulted in jamming of the inflation control cable. We are issuing this AD to prevent non-deployment of the escape slide raft, which could result in delayed evacuation from the airplane during an emergency and consequent injury to passengers.

(f) Compliance

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

(g) Retained: Modification, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2012–23–10, with no changes. Except as provided by paragraph (i) of this AD, within 36 months after December 31, 2012 (the effective date of AD 2012–23–10): Modify the escape slide rafts that have a part number (P/N) specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1723, dated December 17, 2010 (for Model A319, A320, and A321 series airplanes); or Airbus Service Bulletin A320–25–1724, dated December 17, 2010 (for Model A318 series airplanes).

FIGURE 1 TO PARAGRAPHS (g), (j)(1), AND (j)(2) OF THIS AD—ESCAPE SLIDE RAFTS

Air Cruisers and Aerazur Escape Slide Rafts Part No. if Fitted With a Reservoir and Valve Assembly P/N D18309–105 or P/N D18309–205	
D30664–105	D30665–105
D30664–107	D30665–107
D30664–109	D30665–109
D30664–305	D30665–305
D30664–307	D30665–307
D30664–309	D30665–309
D30664–311	D30665–311

(h) Retained: Replacement in Accordance With Air Cruisers Service Bulletin, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2012–23–10, with no changes. Replacement of all affected escape slide rafts on any affected airplane with slide rafts that have been modified in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B. A320 004–25–85, Revision 2, dated January 3, 2012, is acceptable for compliance with the requirements of paragraph (g) of this AD, provided that prior to or concurrently with accomplishing the modification, the installation of the cable guide assembly is done in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B. A320 004–25–56, dated November 12, 1999.

(i) Retained: Airplanes Not Affected by Paragraph (g) of This AD, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2012–23–10, with no changes. Before the effective date of this AD: Airplanes on which Airbus Modification 151459 or Modification 151502 has been embodied in production, and on which no escape slide raft replacements have been made since first flight, are not affected by the requirement specified in paragraph (g) of this AD.

(j) Retained: Parts Installation Limitations, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2012–23–10, with no changes.

(1) For airplanes other than those identified in paragraph (i) of this AD: After accomplishment of the modification required by paragraph (g) of this AD or after accomplishment of the alternative modification specified in paragraph (h) of this AD, no person may install, on any airplane, an escape slide raft specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, unless it has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1723, dated December 17, 2010 (for Model A319, A320, and A321 series airplanes); Airbus Service Bulletin A320–25–1724, dated December 17, 2010 (for Model A318 series airplanes); or Air Cruisers Service Bulletin S.B. A320 004–25–85, Revision 2, dated January 3, 2012 (for Model A318, A319, A320, and A321 series airplanes), including the installation of the cable guide assembly in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B. A320 004–25–56, dated November 12, 1999.

(2) For airplanes identified in paragraph (i) of this AD: As of December 31, 2012 (the effective date of AD 2012–23–10), no person may install, on any airplane, an escape slide raft specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, unless it has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1723, dated December 17, 2010 (for Model A319, A320, and A321 series airplanes); Airbus Service Bulletin A320–25–1724, dated December 17, 2010 (for Model A318 series airplanes); or Air Cruisers Service Bulletin S.B. A320 004–25–85, Revision 2, dated January 3, 2012 (for Model A318, A319, A320, and A321 series airplanes), including the installation of the cable guide assembly in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B. A320 004–25–56, dated November 12, 1999.

(k) Retained: Credit for Previous Actions, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2012–23–10, with no changes. This paragraph provides credit for the actions required by paragraphs (h) and (j) of this AD, if those actions were performed before December 31, 2012 (the effective date of AD 2012–23–10), using Air Cruisers Service Bulletin S.B. A320 004–25–85, dated November 30, 2010; or Air Cruisers Service Bulletin S.B. A320 004–25–85, Revision 1, dated September 30, 2011; which are not incorporated by reference in this AD.

(l) New: Replacement

Within 36 months after the effective date of this AD, replace each escape slide pack assembly having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, with a new escape slide pack assembly having the corresponding part number identified as ''new'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

TABLE 1 TO PARAGRAPHS (l), (m)(2), (n)(2), AND (o)(1) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPH (1) OF THIS AD

Escape slide pack assembly part No.—Old	Escape slide pack assembly part No.—New
D30664–405	D30664–605
D30664–407	D30664–607
D30664–409	D30664–609
D30664–505	D30664–705
D30664–507	D30664–707
D30664–509	D30664–709
D30664–511	D30664–711
D30665–405	D30665–605
D30665–407	D30665–607
D30665–409	D30665–609
D30665–505	D30665–705
D30665–507	D30665–707
D30665–509	D30665–709
D30665–511	D30665–711
D31516–119	D31516–619
D31516–121	D31516–621
D31516–123	D31516–623
D31516–125	D31516–625
D31516–315	D31516–615
D31516–317	D31516–617
D31516–415	D31516–715
D31516–417	D31516–717
D31516–519	D31516–719
D31516–521	D31516–721
D31516–523	D31516–723
D31516–525	D31516–725
D31517–119	D31517–619
D31517–121	D31517–621
D31517–123	D31517–623
D31517–125	D31517–625
D31517–315	D31517–615
D31517–317	D31517–617
D31517–415	D31517–715
D31517–417	D31517–717
D31517–519	D31517–719
D31517–521	D31517–721
D31517–523	D31517–723
D31517–525	D31517–725

(m) New: Modification

(1) Modification of an airplane in accordance with the Accomplishment Instructions of the applicable service information specified in paragraphs (m)(1)(i) through (m)(1)(iv) of this AD, as applicable to the airplane model and escape slide pack assembly part number, is an acceptable method of compliance with the requirements of paragraph (l) of this AD for that airplane.

(i) Airbus Service Bulletin A320–25–1B81, Revision 01, dated December 10, 2015 (for airplanes equipped with slide/rafts having P/Ns D30664–405, D30664–407, D30664–409, D30664–505, D30664–507, D30664–509, D30664–511, D30665–405, D30665–407, D30665–409, D30665–505, D30665–507, D30665–509, and D30665–511).

(ii) Airbus Service Bulletin A320–25–1B82, Revision 02, dated July 6, 2017 (for airplanes equipped with slides having P/Ns D31516–121, D31516–125, D31516–317, D31516–417, D31516–525, D31517–121, D31517–125, D31517–317, D31517–417, and D31517–525).

(iii) Airbus Service Bulletin A320–25–1B83, Revision 01, dated December 10, 2015 (for airplanes equipped with slides with re-entry line P/Ns D31516–119, D31516–123, D31516–519, D31516–523, D31516–315, D31516–415, D31517–119, D31517–123, D31517–519, D31517–523, D31517–315, and D31517–415).

(iv) Airbus Service Bulletin A320–25–1B84, Revision 01, dated December 10, 2015 (for airplanes equipped with slides with Dual Fastener P/N D31516–521 and D31517–521).

(2) An escape slide pack assembly not installed on an airplane and having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD may be modified to the corresponding part number identified as ''new'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, in accordance with Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 2, dated April 29, 2016; and Zodiac Aero Evacuations Systems Service Bulletin S.B. A320 004–25–97, Revision 2, dated September 1, 2016; as applicable.

(n) New: Airplanes Not Affected

(1) An airplane on which Airbus Modification 151459 or Modification 151502 has been embodied in production is not affected by the requirements of paragraph (g) of this AD, provided it is determined that no escape slide pack assembly having a part number specified in figure 2 to paragraphs (n) and (o)(2) of this AD, figure 3 to paragraphs (n) and (o)(2) of this AD, or figure 4 to paragraphs (n) and (o)(2) of this AD, is installed on that airplane as of the effective date of this AD.

(2) An airplane on which Airbus Modification 156766, Modification 156767, Modification 156768, Modification 156769, or Modification 156770 has been embodied in production is not affected by the requirements of paragraphs (g) and (l) of this AD, provided that it is determined that no escape slide raft having a part number identified in figure 2 to paragraphs (n) and (o)(2) of this AD, figure 3 to paragraphs (n) and (o)(2) of this AD, or figure 4 to paragraphs (n) and (o)(2) of this AD, or having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, is installed on that airplane as of the effective date of this AD.

FIGURE 2 TO PARAGRAPHS (n) AND (o)(2) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPH (1) OF THIS AD

Part No.	
D31516–111	D31517–111
D31516–113	D31517–113
D31516–115	D31517–115
D31516–117	D31517–117
D31516–311	D31517–311
D31516–313	D31517–313

FIGURE 3 TO PARAGRAPHS (n) AND (o)(2) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPHS (g) AND (h) OF THIS AD

[If fitted with a Reservoir and Valve Assembly P/N D18309–105 or P/N D18309–205]

Part No.	
D30664–105	D30665–105
D30664–107	D30665–107
D30664–109	D30665–109
D30664–305	D30665–305
D30664–307	D30665–307
D30664–309	D30665–309
D30664–311	D30665–311

FIGURE 4 TO PARAGRAPHS (n) AND (o)(2) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES NOT APPROVED FOR FURTHER INSTALLATION ON ANY AIRPLANE

Part No.	
D30664–101	D30665–101
D30664–103	D30665–103
D31516–101	D31517–101
D31516–103	D31517–103
D31516–105	D31517–105
D31516–107	D31517–107
D31516–109	D31517–109

(o) New: Parts Installation Provisions

(1) As of the effective date of this AD, do not install on any airplane an escape slide pack assembly having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD.

(2) As of the effective date of this AD, do not install on any airplane an escape slide pack assembly having a part number identified in figure 2 to paragraphs (n) and (o)(2) of this AD, figure 3 to paragraphs (n) and (o)(2) of this AD, and figure 4 to paragraphs (n) and (o)(2) of this AD.

(3) Installation of an escape slide pack assembly having a part number approved after March 18, 2016 (the effective date of EASA AD 2016–0043), constitutes compliance with the requirements of paragraph (l) of this AD, provided the conditions as specified in paragraphs (o)(3)(i) and (o)(3)(ii) of this AD are met.

(i) The part number must be approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Airbus's EASA DOA; and

(ii) The installation must be accomplished in accordance with airplane modification instructions approved by the Manager, International Section, Transport Standards Branch, FAA; or the EASA; or Airbus's EASA DOA.

(p) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (m)(1) of this AD, if those actions were performed before the effective date of this AD using the applicable service information in paragraphs (p)(1)(i) through (p)(1)(v) of this AD.

(i) Airbus Service Bulletin A320–25–1B81, dated August 13, 2015.

(ii) Airbus Service Bulletin A320–25–1B82, dated August 13, 2015.

(iii) Airbus Service Bulletin A320–25–1B82, Revision 01, dated December 10, 2015.

(iv) Airbus Service Bulletin A320–25–1B83, dated July 31, 2015.

(v) Airbus Service Bulletin A320–25–1B84, dated July 31, 2015.

(2) This paragraph provides credit for actions required by paragraph (m)(2) of this AD, if those actions were performed before the effective date of this AD using the applicable service information in paragraphs (p)(2)(i) through (p)(2)(iv) of this AD.

(i) Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, dated July 9, 2015;

(ii) Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 1, dated September 18, 2015.

(iii) Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, dated July 9, 2015.

(iv) Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, Revision 1, dated September 18, 2015.

(q) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(r) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0043, dated March 4, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA 2017–0556.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425- 227–1149.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (s)(5) and (s)(6) of this AD.

(s) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on January 16, 2018.

(i) Airbus Service Bulletin A320–25–1B81, Revision 01, dated December 10, 2015.

(ii) Airbus Service Bulletin A320–25–1B82, Revision 02, dated July 6, 2017.

(iii) Airbus Service Bulletin A320–25–1B83, Revision 01, dated December 10, 2015.

(iv) Airbus Service Bulletin A320–25–1B84, Revision 01, dated December 10, 2015.

(v) Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 2, dated April 29, 2016.

(vi) Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, Revision 2, dated September 1, 2016.

(4) The following service information was approved for IBR on December 31, 2012 (77 FR 70369, November 26, 2012).

(i) Airbus Service Bulletin A320–25–1723, dated December 17, 2010.

(ii) Airbus Service Bulletin A320–25–1724, dated December 17, 2010.

(iii) Air Cruisers Service Bulletin S.B. A320 004–25–85, Revision 2, dated January 3, 2012.

(iv) Air Cruisers Service Bulletin S.B. A320 004–25–56, dated November 12, 1999.

(5) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* For Zodiac Aerospace service information identified in this AD, contact Air Cruisers, Cage Code 70167, 1747 State Route 34, Wall Township, NJ 07727–3935; telephone: (732) 681–3527; Internet: *http://www.zodiacaerospace.com.*

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

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

Issued in Renton, Washington, on November 29, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26363 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1117; Product Identifier 94–ANE–39–AD; Amendment 39–19112; AD 2017–24–08]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2014–24–08 for all Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 turbofan engines with certain low-pressure (LP) fuel filter-to-high-pressure (HP) fuel pump tube assemblies, or HP fuel pump-to-fuel flow governor (FFG) or FFG-to-HP pump inlet overspill return tube assemblies and flanged adaptor, installed. AD 2014–24–08 required replacing certain LP fuel filter-to-HP fuel pump tube assemblies. This AD retains the requirement in AD 2014–24–08 to remove the LP fuel filter-to-HP fuel pump tube, adds new compliance thresholds, and requires installation of new HP fuel pump-to-FFG and FFG-to-HP pump inlet overspill return tube assemblies and flanged adaptor. This AD was prompted by fuel leaks that have occurred at the flanged joints of the HP fuel pump-to-FFG tube assembly and FFG-to-HP pump inlet overspill return tube assembly. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective January 16, 2018.

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://customers.rolls-royce.com/public/rollsroycecare.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1117.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1117; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–24–08, Amendment 39–18041 (79 FR 71308, December 2, 2014), ''AD 2014–24–08,'' for all RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 turbofan engines. AD 2014–24–08 applied to the specified products. The NPRM published in the **Federal Register** on May 26, 2017 (82 FR 24262). The NPRM proposed to continue to require replacing certain LP fuel filter-to-HP fuel pump tube assemblies. That NPRM also proposed to require installation of new HP fuel pump-to-FFG and FFG-to-HP pump inlet overspill return tube assemblies and flanged adaptor.

Comments

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

Request To Change Installation Prohibition

American Airlines (AAL) and FedEx Express stated the proposed AD would prohibit reinstallation of earlier HP fuel pump to FFG and FFG to HP pump inlet overspill return tube assemblies. AAL and FedEx Express request clarification that the HP fuel tube does not require replacement if removed simply to gain access to other components.

FedEx is concerned that the current wording would result in serviceable tube assemblies having to be replaced in a line environment when components such as the FFG or fuel pump are replaced as part of fuel system troubleshooting. AAL didn't justify their request.

We agree. This AD requires replacement of the affected parts before they exceed 4,750 engine flight cycles (FC) or 15,000 flight hours (FH), or at a shop visit, whichever occurs first. To address this comment, we deleted the Installations Prohibition paragraph and integrated the previous restrictions into paragraph (h), Definitions, adding the statement that ''The reinstallation of affected parts, removed to facilitate on-wing/in-service maintenance of adjacent components, is acceptable within the limits prescribed by paragraphs (g)(1) and (2) of this AD.''

Request To Change Applicability

AAL and UPS requested clarification of shop visit. They would like to clarify the shop visit definition as, ''For the purpose of this AD, a shop visit is defined as the separation of major mating module flanges to perform maintenance or overhaul, excluding the removal or replacement of the high speed gearbox, or for the sole purpose of transporting the engine without performing subsequent maintenance or overhaul.'' They gave no justification for the requested change.

We disagree. The shop visit definition is intended to require the replacement of parts when the engine is in a shop for maintenance or overhaul with no exceptions, consistent with the associated service bulletin. We did not change this AD.

Request To Add Credit for Previous Actions

UPS stated the proposed AD requires incorporation of Service Bulletins (SBs) RB.211–73–H131, Revision 1 and RB.211–73–G230, Revision 3. UPS requests this AD give credit for previous incorporation of any prior revision of these two service bulletins.

We agree. Corrective action done prior to the effective date of this AD using earlier revisions of the cited service bulletins is acceptable. We added a new section Credit for Previous Actions after paragraph (h) of this AD.

Request To Change Required Actions

UPS requested that the pre-SB RB.211–73–H131 part numbers be listed in paragraph (g)(1) of this AD, to clarify only pre-SB RB.73–H131 engines are affected.

We agree. We revised paragraph (g)(1) of this AD.

Request To Change Compliance Time

UPS stated the proposed AD section (g)(1) requires incorporation of SB RB.211–73–H131 before the LP fuel filter-to-HP fuel pump tube exceeds 4,750 FC or 15,000 FH. These time and cycle limits appear to have originated with SB RB.211–73–E355, which UPS has previously interpreted as ''soft limits'' rather than ''hard limits'' due to the verbiage used in the SB. UPS requests the final rule include a drawdown period of 400 cycles/800 hours to allow time for operators to incorporate these modifications on those engines which already exceed the stated thresholds. UPS justified the request to prevent operational disruptions. RR has reviewed the original technical justification for introducing the life limits and modifications. Given the lives of the UPS fleet, a 400 flight cycle extension does not have an appreciable effect on engine safety. The dual engine in-flight shut down rate remains below the continued airworthiness threshold.

We agree. A RR review supports the requested drawdown plan. We revised paragraph (g)(1) of this AD.

Request To Define Engine Hours/Cycles Since New

UPS requests that the compliance thresholds be listed as (engine or part) hours/cycles since new or since last accomplishment of SB RB.211–73–E355, whichever is sooner. They state that SB RB.211–73–E355 installs a new LP fuel filter-to-HP fuel pump tube.

We partially agree. We agree that time since accomplishing SB RB.211–73–E355 is equivalent to time since new for the replaced part. We disagree that the compliance thresholds need to be changed as this AD already specifies compliance before ''the part exceeds 4,750 engine flight cycles (FC) or 15,000 flight hours (FH), since new''. We did not change this AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

Rolls-Royce plc has issued SB RB.211–73–G230, Revision 3, dated April 8, 2016. The SB describes a modification (mod 73–G230) and introduces new HP fuel pump-to-FFG and FFG-to-HP pump inlet overspill return tube assemblies with a larger O-ring groove on the end adaptor sealing face. RR has also issued SB RB.211–73–H131, Revision 1, dated September 2, 2014. The SB introduces a new LP fuel filter-to-HP fuel pump tube assembly. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 100 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of fuel tube assemblies	8.5 work-hours × $85 per hour = $722.50	$17,800.00	$18,522.50	$1,852,250.00

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2014–24–08, Amendment 39 18041 (79 FR 71308, December 2, 2014), and adding the following new AD:

2017–24–08 Rolls-Royce plc: Docket No. FAA 2017–1117; Amendment 39–19112; Product Identifier 94–ANE–39–AD.

(a) Effective Date

This AD is effective January 16, 2018.

(b) Affected ADs

This AD supersedes AD 2014–24–08, Amendment 39–18041 (79 FR 71308, December 2, 2014).

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 turbofan engines with low-pressure (LP) fuel filter-to-high-pressure (HP) fuel pump tube assembly, part number (P/N) UL16692, AE709623–1, 163521538, or 163521545, installed; or HP fuel pump-to-fuel flow governor (FFG), P/N UL16691 or UL37214, installed; or FFG-to-HP pump inlet overspill return tube assemblies, P/N UL16690 or UL37213, installed; or flanged adaptor, P/N UL37218, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7321, Fuel Control/Turbine Engines.

(e) Unsafe Condition

This AD was prompted by reports of fuel leaks that have resulted in engine in-flight shutdowns. We are issuing this AD to prevent loss of fuel supply to the engine, which could lead to the in-flight shutdown of one or more engines, loss of thrust control, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Remove LP fuel filter-to-HP fuel pump tube assembly, P/N UL16692, AE709623–1, 163521538, and 163521545, and replace with a part eligible for installation, at the applicable compliance times specified in paragraphs (g)(1)(i) or (ii) of this AD, whichever occurs first, using the Accomplishment Instructions of RR Service Bulletin (SB) RB.211–73–H131, Revision 1, dated September 2, 2014.

(i) At the next shop visit after the effective date of this AD, or

(ii) at the later of the following:

(A) Before the part exceeds 4,750 engine flight cycles (FC) or 15,000 flight hours (FH), since new, whichever occurs first, or

(B) Within 400 FC or 800 FH, whichever occurs first, after the effective date of this AD.

(2) For affected engines with an HP fuel pump-to-FFG tube assembly or FFG-to-HP pump inlet overspill return tube assembly, or flanged adaptor, installed, replace the parts concurrent with the actions specified in paragraph (g)(1) of this AD, if applicable, or during the next shop visit, using the Accomplishment Instructions of RR SB RB.211–73–G230, Revision 3, dated April 8, 2016.

(h) Definitions

(1) For the purpose of this AD, a part eligible for installation excludes the following: LP fuel filter-to-HP fuel pump tube assembly, P/N UL16692, AE709623–1, 163521538, or 163521545; HP fuel pump-to-FFG tube assembly, P/N UL16691 or UL37214; or FFG-to-HP pump inlet overspill return tube assembly, P/N UL16690 or UL37213; or flanged adaptor, P/N UL37218. The reinstallation of affected parts, removed to facilitate on-wing/in-service maintenance of adjacent components is acceptable within the limits prescribed by paragraphs (g)(1) and (2) of this AD.

(2) For the purpose of this AD, a shop visit is the induction of an engine into the shop for maintenance or overhaul.

(i) Credit for Previous Actions

You may take credit for the corrective action required by paragraphs (g)(1) and (2) of this AD, if you performed these actions before the effective date of this AD using RR Alert NMSB RB.211–73–H131, original issue, dated May 10, 2013 or RR Alert NMSB RB.211–73–G230, Revision 2, dated December 20, 2012, respectively.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(k) Related Information

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency (EASA) AD 2017–0006, dated January 10, 2017, and EASA AD 2014–0123, dated May 15, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2017–1117.

(l) Material Incorporated by Reference

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

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

(i) Rolls-Royce plc (RR) Service Bulletin (SB) RB.211–73–H131, Revision 1, dated September 2, 2014.

(ii) RR SB RB.211–73–G230, Revision 3, dated April 8, 2016.

(3) For RR service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://customers.rolls-royce.com/public/rollsroycecare.*

(4) You may view this service information at FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on November 22, 2017.

Robert J. Ganley,

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

[FR Doc. 2017–26572 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0622; Product Identifier 2016–NM–192–AD; Amendment 39–19120; AD 2017–25–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This AD was prompted by reports of a vertical strut penetrating through the cabin floor during an emergency water landing and on airframe ground contact at certain speeds/accelerations. This AD requires modification of the fuselage structure at a certain frame. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 16, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0622.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0622; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on June 23, 2017 (82 FR 28596) (''the NPRM''). The NPRM was prompted by reports of a vertical strut penetrating through the cabin floor during an emergency water landing and on airframe ground contact at certain speeds/accelerations. The NPRM proposed to require modification of the fuselage structure at frame (FR) 65. We are issuing this AD to prevent the central vertical strut at FR65 from penetrating through the cabin floor in certain conditions, which could lead to injury of occupants and delays during an emergency evacuation.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0212, dated October 25, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> In service occurrences were reported where, as a consequence [during an emergency water landing and] of an airframe ground contact above certified vertical speed/vertical acceleration, the vertical strut at Frame (FR) 65 penetrated through the cabin floor.
>
> This condition, if not corrected, could lead to injury of occupants and/or delays during emergency evacuation.
>
> To address this potential unsafe condition, Airbus developed mod 153724, a structural change which prevents the central vertical strut at FR65 to pass through the cabin floor, and issued Service Bulletin (SB) A320–53–1262 to provide instructions for installation of this modification on aeroplanes in service. After SB A320–53–1262 was issued, incorrect MSN [manufacturer serial number] allocations and configuration definitions were identified in it. Consequently Airbus revised that SB, and in addition issued SB A320–53–1333 and SB A320–53–1334.
>
> For the reason described above, this [EASA] AD requires modification of the fuselage structure at FR65.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0622.

Comments

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

Request for Different Method of Compliance for Foam Tape

United Airlines (UAL) requested that we include an exception to allow the use of a different foam tape that better meets the needs of its fleet. UAL mentioned that the purpose of the tape is to reduce vibration and prevent chafing from the floor panels, and that the location is considered a ''wet'' area of the aft cabin that is susceptible to corrosion. UAL also stated that the tape specified does not meet its corrosion prevention and control program (CPCP) standards, and that the tape can retain moisture and may not adequately seal between the floor panel and floor support structure. UAL indicated that protecting the floor beams from moisture ingress has been an ongoing effort on its fleet through the CPCP committee and that due to corrosion reports UAL uses a different foam tape on all floor support structure in the cabin ''wet'' areas. UAL pointed out that it has benefited from superior corrosion protection due to using the different foam tape and stressed its continual commitment to monitoring and evaluating new products and procedures for the aft cabin ''wet'' areas.

UAL also requested that we provide an exception to the ''RC'' (Required for Compliance) specification associated with installation of the foam tape.

We agree to include an exception for the reasons provided. We have added paragraph (h), ''Service Information Exceptions,'' to this AD and redesignated subsequent paragraphs accordingly. In paragraph (h)(1) of this

AD, we added an exception for using an alternative foam tape, in accordance with a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA Design Organization Approval (DOA).

Request for Exception for Placard Installation at FR65

UAL also requested that we provide an exception to the ''RC'' specification associated with installation of the placard. UAL concurred with marking of modification areas to prevent de-modification, but uses a different method (marking AD areas when there is high risk of de-modification, and denoting the applicable Engineering Authorization and/or AD). UAL stated that marking the modification area in accordance with the service information does not bring awareness to technicians and that the service information may not be readily available for reference. Additionally, UAL pointed out that because the modification is a complex alteration which cannot be easily returned to the original configuration, it considers the modification to be low risk of de-modification. UAL also pointed out that Airbus has identified illustrated parts catalog (IPC) and structural repair manual (SRM) publications affected in the specified service information and that the IPC changes will identify the proper configuration between pre- and post-modification accomplishment. UAL mentioned that excepting the placard marking on FR65 from the ''RC'' requirement will allow operators (if they choose) to mark their applicable Engineering Authorization and/or AD instead and that applying the placard does not affect the technical intent of the modification.

We agree to include an exception for the reasons provided. In paragraph (h)(2) of this AD, we added an exception to specify that the referenced placard installation is not required by this AD.

Request To Refer to Later Revisions of the Service Information

American Airlines (AAL) requested that we delay issuance of the final rule until the manufacturer can release Revision 02 (we referred to Revision 01 in the NPRM) of Airbus Service Bulletin A320–53–1262. AAL pointed out that Revision 02 of Airbus Service Bulletin A320–53–1262 is expected to address certain discrepancies found during validation of the service information. UAL also requested that we verify that the required service information specified in the NPRM is at the latest revision level to prevent alternative method of compliance (AMOC) requests immediately following publication of the final rule.

We have verified that the required service information specified in this AD is at the latest revision level. We do not consider that delaying this action until release of the planned service information is warranted, since Revision 02 of Airbus Service Bulletin A320–53–1262 is not yet approved and we cannot allow future revisions of service information in this AD. Additionally, AAL did not provide any further details associated with the discrepancies discovered during validation. We have determined that using Revision 01 of Airbus Service Bulletin A320–53–1262 adequately addresses the identified unsafe condition. However, under the provisions of paragraph (i)(1) of this AD, we will consider requests for approval of an AMOC to allow the use of Revision 02 of Airbus Service Bulletin A320–53–1262 after issuance of the updated service information. We have not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued the following Airbus service information:

- Airbus Service Bulletin A320–53–1262, excluding Appendix 01 and including Appendix 02, Revision 01, dated July 29, 2016;
- Airbus Service Bulletin A320–53–1333, excluding Appendix 01 and including Appendix 02, dated July 29, 2016; and
- Airbus Service Bulletin A320–53–1334, excluding Appendix 01 and including Appendixes 02 and 03, dated July 29, 2016.

The service information describes procedures for modifying the fuselage structure at FR65. These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1,123 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	18 work-hours × $85 per hour = $1,530	$16,600	$18,130	$20,359,990

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance

of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–25–06 Airbus: Amendment 39–19120; Docket No. FAA–2017–0622; Product Identifier 2016–NM–192–AD.

(a) Effective Date

This AD is effective January 16, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, all manufacturer serial numbers, except those on which Airbus Modification 153724 was embodied in production.

(1) Airbus Model A318–111, –112, –121, and –122 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of a vertical strut penetrating through the cabin floor during an emergency water landing and on airframe ground contact at certain speeds/accelerations. We are issuing this AD to prevent the central vertical strut at frame (FR) 65 from penetrating through the cabin floor in certain conditions, which could lead to injury of occupants and delays during an emergency evacuation.

(f) Compliance

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

(g) Modification

Except as provided by paragraphs (h)(1) and (h)(2) of this AD: Within 72 months after the effective date of this AD, modify the fuselage structure at FR65, in accordance with the Accomplishment Instructions of the applicable service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) For Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, as identified in Airbus Service Bulletin A320–53–1262, Revision 01, dated July 29, 2016: Airbus Service Bulletin A320–53–1262, excluding Appendix 01 and including Appendix 02, Revision 01, dated July 29, 2016.

(2) For Model A320–211, –212, –214, –232, and –233 airplanes, as identified in Airbus Service Bulletin A320–53–1333, dated July 29, 2016: Airbus Service Bulletin A320–53–1333, excluding Appendix 01 and including Appendix 02, dated July 29, 2016.

(3) For Model A321–211, –213, and –231 airplanes as identified in Airbus Service Bulletin A320–53–1334, dated July 29, 2016: Airbus Service Bulletin A320–53–1334, excluding Appendix 01 and including Appendixes 02 and 03, dated July 29, 2016.

(h) Service Information Exceptions

(1) Where the service bulletin specified in paragraphs (g)(1), (g)(2), or (g)(3) of this AD specifies to use ABS5006 foam tape on the new floor support beam, this AD allows the installation of an alternative foam tape, in accordance with a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(2) Where the service bulletin specified in paragraphs (g)(1), (g)(2), or (g)(3) of this AD specifies to install a placard at FR65, that placard installation is not required by this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0212, dated October 25, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0622.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–53–1262, excluding Appendix 01 and including Appendix 02, Revision 01, dated July 29, 2016.

(ii) Airbus Service Bulletin A320–53–1333, excluding Appendix 01 and including Appendix 02, dated July 29, 2016.

(iii) Airbus Service Bulletin A320–53–1334, excluding Appendix 01 and including Appendixes 02 and 03, dated July 29, 2016.

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

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

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

Issued in Renton, Washington, on November 16, 2017.

Chris Spangenberg,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–26260 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1072]

Drawbridge Operation Regulation; Columbia River, Vancouver, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burlington Northern Santa Fe (BNSF) Railway Bridge across the Columbia River, mile 105.6, at Vancouver, WA. The deviation is necessary to accommodate replacement gears, shafts and bearings. This deviation allows the bridge to remain in the closed-to-navigation position during maintenance activities.

DATES: This deviation is effective from 7 a.m. on December 19, 2017 to 7 p.m. on December 21, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–1072 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 Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: BNSF requested that the BNSF Swing Bridge across the Columbia River, mile 105.6, remain closed to marine vessel traffic to install new swing gears, shafts and bearings. During this installation period, the swing span of the bridge will be in the closed-to-navigation position; however, the span may be opened for maritime emergencies, when an hour's notice has been given, but any emergency opening will necessitate a time extension to the approved dates. The BNSF Swing Bridge, mile 105.6, provides 39 feet of vertical clearance above Columbia River Datum 0.0 while in the closed position.

The subject bridge operates in accordance with 33 CFR 117.5. This deviation allows the swing span of the BNSF Railway Bridge across the Columbia River, mile 105.6, to remain in the closed-to-navigation position, and need not open for maritime traffic from 7 a.m. to 7 p.m. on December 19, 2017, and 7 a.m. to 7 p.m. on December 21, 2017. The bridge shall operate in accordance to 33 CFR 117.5 at all other times. Waterway usage on this part of the Columbia River includes vessels ranging from large ships to commercial tug and tow vessels to recreational pleasure craft including cabin cruisers and sailing vessels. Vessels able to pass through the bridge in the closed-to-navigation position may do so at anytime. The bridge will be able to open for emergencies, if an hour's notice is given, and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels 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 designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 4, 2017.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2017–26573 Filed 12–8–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0986]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters on the Lower Mississippi River above Head of Passes between mile marker (MM) 94.0 and MM 95.0. This safety zone is needed to protect personnel, vessels and the marine environment from potential hazards associated with a fireworks display on January 6, 2018. This rulemaking will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative.

DATES: This rule is effective from 8:30 p.m. through 9:30 p.m. on January 6, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2017–0986. To view documents mentioned in this preamble as being available in the docket, go to *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 rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Commander (LCDR) Howard K. Vacco, Sector New Orleans, Waterways Management Division Chief, U.S. Coast Guard; telephone 504–365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector New Orleans
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 final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by January 6, 2018 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 of this rule would be contrary to the public interest because the safety zone is necessary to respond to potential hazards associated with a fireworks display.

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 New Orleans (COTP) has determined that a temporary safety zone is necessary to provide for the safety of life and vessels transiting the area where the fireworks will be launched. The fireworks display is scheduled to take place from 8:30 p.m. through 9:30 p.m. on January 6, 2018, in the navigable waters of the Lower Mississippi River at New Orleans, LA.

IV. Discussion of the Rule

The COTP will establish a safety zone from 8:30 p.m. to 9:30 p.m. on January 6, 2018. The safety zone would cover all navigable waters of the Lower Mississippi River above Head of Passes between mile marker 94.0 and mile marker 95.0 in New Orleans, LA. The duration of the safety zone is to ensure the protection of personnel, vessels and the marine environment from potential hazards associated with the fireworks display. 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. This safety zone will restrict vessel traffic from entering or transiting within a one mile area of navigable waterway of the Lower Mississippi River above Head of Passes between mile marker 94.0 and mile marker 95.0 in New Orleans, LA, 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 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section 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 proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this 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 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 (NEPA) (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 one hour on one mile of navigable waters between mile marker (MM) 94.0 and MM 95.0 of the Lower Mississippi River. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration (REC) is available in the docket for this rulemaking.

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 to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0986 to read as follows:

§ 165.T08–0986 Safety Zone; Lower Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River above Head of Passes, New Orleans, LA between mile marker 94.0 and mile marker 95.0.

(b) *Effective period.* This section is effective from 8:30 p.m. through 9:30 p.m. on January 6, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: December 4, 2017.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2017–26561 Filed 12–8–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0500; FRL–9971–72–Region 4]

Air Plan Approval; Florida; Stationary Sources Emissions Monitoring; Withdrawal

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 13, 2017, direct final rule that would have approved changes to the Florida Department of Environmental Protection (FDEP) State Implementation Plan (SIP) to revise Florida's requirements and procedures for emissions monitoring at stationary sources. EPA will address the comment in a separate final action based upon the proposed rulemaking action, also published on October 13, 2017.

DATES: The direct final rule published at 82 FR 47636, on October 13, 2017, is withdrawn effective December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Febres can be reached via telephone at (404) 562–8966 or via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2017 (82 FR 47636), EPA published a direct final rule approving a portion of a SIP revision submitted by the State of Florida, through FDEP on February 1, 2017, for the purpose of revising Florida's requirements and procedures for emissions monitoring at stationary sources. Florida's February 1, 2017, SIP submittal included amendments to three Florida Administrative Code (F.A.C.) rule sections, as well as the removal of one F.A.C. rule section from the Florida SIP in order to eliminate redundant language and make updates to the requirements for emissions monitoring at stationary sources. Additionally, the October 13, 2017, direct final rule included a correction to remove an additional F.A.C. rule that was previously approved for removal from the SIP in a separate action but was never removed.

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such

comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the aforementioned changes. EPA will address the comment in a separate final action based on the proposed action also published on October 13, 2017 (82 FR 47662). In addition, because information in the docket was not fully accessible to the public during the initial comment period, in a separate action EPA will reopen the comment period for the proposed rule.

List of Subjects in 40 CFR Part 52

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

Dated: November 21, 2017.

Onis ''Trey'' Glenn, III

Regional Administrator, Region 4.

■ Accordingly, the amendment to 40 CFR 52.520(c) published on October 13, 2017 (82 FR 47636), is withdrawn effective December 11, 2017.

[FR Doc. 2017–26633 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0327; FRL–9971–61–Region 5]

Air Plan Approval; Minnesota; 2008 Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a May 26, 2016, State Implementation Plan (SIP) submission from Minnesota that is intended to demonstrate that the Minnesota SIP meets certain interstate transport requirements of the Clean Air Act (CAA) for the 2008 ozone National Ambient Air Quality Standards (NAAQS). EPA is approving this SIP as containing adequate provisions to ensure that Minnesota emissions do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state. The proposed rulemaking associated with this final action was published on July 17, 2017, and EPA received no comments during the comment period, which ended on August 16, 2017.

DATES: This final rule is effective on January 10, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0327. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* 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 either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Eric Svingen, Environmental Engineer, at (312) 353–4489 before visiting the Region 5 office.

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

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. EPA's Analysis of Minnesota's Submittal
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. Background

On March 12, 2008, EPA revised the levels of the primary and secondary ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). The CAA requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable ''infrastructure'' elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain ''good neighbor'' provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action addresses the first two sub-elements of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I). These sub-elements require that each SIP for a new or revised standard contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' or ''interfere with maintenance'' of the applicable air quality standard in any other state.

II. EPA's Analysis of Minnesota's Submittal

On May 26, 2016, the State of Minnesota submitted a revision to its SIP to address the first two sub-elements of the good neighbor provisions, at CAA section 110(a)(2)(D)(i)(I). Specifically, Minnesota's submission asserts that the state's SIP contains adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' or ''interfere with maintenance'' of the 2008 ozone standard in any other state. The SIP submission highlights rules and statutes already in Minnesota's SIP that limit emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOC), the precursor pollutants contributing to ozone formation. The submission also notes that Minnesota sources are subject to a Federal Implementation Plan (FIP) for the Cross-State Air Pollution Rule (CSAPR) at 40 CFR 52.1240, and are required to reduce annual emissions of NO_X in support of the 2006 NAAQS for fine particulate matter ($PM_{2.5}$).

EPA developed technical information and a related analysis to assist states with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS, and used this technical analysis to support the CSAPR Update for the 2008 Ozone NAAQS (''CSAPR Update'').[1] EPA's analysis confirms the assertion in Minnesota's submittal: Minnesota does not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone standard in any other state.

On July 17, 2017 (82 FR 32673), EPA published a rule proposing to approve Minnesota's interstate transport SIP for purposes of meeting the CAA section

[1] 81 FR 74504 (October 26, 2016).

110(a)(2)(D)(i)(I) requirements of the 2008 ozone standard. This proposed rule contained a detailed evaluation of how Minnesota's submission satisfies CAA requirements. No comments were received. Therefore, EPA is finalizing this rule as proposed.

III. What action is EPA taking?

EPA is approving Minnesota's interstate transport SIP for purposes of meeting the CAA section 110(a)(2)(D)(i)(I) requirements of the 2008 ozone standard.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: November 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

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.*

■ 2. In § 52.1220, the table in paragraph (e) is amended by revising the entry for ''Section 110(a)(2) Infrastructure Requirements for the 2008 ozone NAAQS'' to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Comments
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2008 ozone NAAQS.	Statewide	6/12/2014 and 5/26/2016.	12/11/2017, [Insert **Federal Register** citation].	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). We have not taken action on the visibility portion of (D)(i)(II). We will address these requirements in a separate action. EPA has disapproved the elements related to the prevention of significant deterioration, specifically as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J); however, Minnesota continues to implement the Federally promulgated rules for this purpose.
*	*	*	*	*

[FR Doc. 2017–26539 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2017–0667; FRL–9971–66–OAR]

Findings of Failure To Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action to find that three states have failed to submit timely revisions to their state implementation plans (SIPs) as required to satisfy certain requirements under the Clean Air Act (CAA) for implementation of the 2008 ozone National Ambient Air Quality Standards (2008 ozone NAAQS). These findings of failure to submit apply to states with overdue SIP revisions (or attainment plans) for nonattainment areas reclassified from ''Marginal'' to ''Moderate'' in May 2016 because the areas failed to attain the 2008 ozone NAAQS by the Marginal area attainment date of July 20, 2015. The SIP revisions to address all applicable Moderate area attainment plan requirements for these areas were due on January 1, 2017. This action requires the affected states to timely submit a SIP revision consistent with the requirements of the CAA and the EPA regulations. If a state fails to make the required timely SIP submittal, or if a submitted SIP is incomplete, the CAA requires the imposition of sanctions for the affected area(s). In addition, the EPA is obligated to promulgate a federal implementation plan (FIP) to address any outstanding SIP requirements if a state does not submit, and the EPA does not approve, a state's submittal within 24 months of the effective date of these findings.

DATES: The effective date of this action is January 10, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0667. All documents in the docket are listed and publicly available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Avenue 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 Office of Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Raps, Office of Air Quality Planning and Standards, Air Quality Policy Division, U.S. Environmental Protection Agency, Mail Code: C539–01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; by telephone (919) 541–4383; or by email at *raps.virginia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Notice and Comment Under the Administrative Procedure Act (APA)

Section 553 of the APA[1] provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because no significant EPA judgment is involved in making findings of failure to submit SIPs, or elements of SIPs. Rather, the findings are required by the CAA where states have made no submissions to meet the SIP requirements, or where the EPA has separately determined that they made incomplete submissions. Thus, notice and public procedures are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

B. How can I get copies of this document and other related information?

In addition to being available in the docket, an electronic copy of this action will be posted at *https://www.epa.gov/ozone-pollution/2008-ozone-national-ambient-air-quality-standards-naaqs-nonattainment-actions.*

[1] *See* 5 U.S.C. 553(b)(3)(B).

C. Where do I go if I have a specific state question?

For questions related to specific states mentioned in this notice, please contact the appropriate EPA Regional office:

Regional offices	States
EPA Region 2: Rick Ruvo, Chief, Air Programs Branch, 290 Broadway, New York, NY 10007	New Jersey.
EPA Region 5: John Mooney, Chief, Air Programs Branch, 77 West Jackson Blvd, Chicago, IL 60604	Illinois.
EPA Region 9: Doris Lo, Chief, Rulemaking Office; Anita Lee, Acting Chief, Planning Office; or Gerardo Rios, Chief, Permits Office, 75 Hawthorne Street, San Francisco, CA 94105.	California.

D. How is the preamble organized?

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II. Background

On March 27, 2008, the EPA issued its final rule to revise the ozone NAAQS establishing new 8-hour standards to provide the necessary protection of public health and welfare.[2] In that action, the EPA promulgated identical standards of 0.075 parts per million (ppm) for the primary and secondary standards.[3] Those standards are met when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm.[4]

Promulgation of a revised NAAQS triggers a requirement for the EPA to designate areas of the country as nonattainment, attainment, or unclassifiable for the standards. For any revised ozone NAAQS, the EPA must classify each nonattainment area based on the severity of the ozone levels.[5] The severity of ozone levels is determined based on an area's ''design value,'' which is an indicator of the ozone levels in the area during the most recent 3 years.[6] The possible classifications for ozone nonattainment areas are, in order from ''lowest'' to ''highest'' diversion from the standard, Marginal, Moderate, Serious, Severe and Extreme.[7] Nonattainment areas with a ''lower'' classification have ozone levels that are closer to the standard than areas with a ''higher'' classification.

On May 21, 2012, and June 11, 2012, the EPA issued rules designating 46 areas throughout the country as nonattainment for the 2008 ozone NAAQS (both rules were effective July 20, 2012), and establishing classifications for the designated nonattainment areas.[8] Thirty-six of these areas were classified as Marginal; the remaining 10 areas were classified as Moderate or higher. All 46 areas are subject to the general nonattainment area planning requirements of CAA section 172 and also to the ozone-specific planning requirements of CAA section 182.[9]

Ozone nonattainment areas of lower classifications have fewer and less stringent mandatory air quality planning and control requirements than those of higher classifications. For a Marginal area, a state is required to provide a baseline emissions inventory, adopt regulations to receive emissions statements from major stationary sources, and implement a nonattainment New Source Review (NSR) program for the relevant ozone standard.[10] For a Moderate area, a state is required to comply with all the Marginal area requirements and, in addition, submit an analysis demonstrating how the area will attain the 2008 ozone NAAQS no more than 6 years from the effective date of initial designation to nonattainment. A state is also required to adopt and implement certain emissions controls, such as Reasonably Available Control Technology (RACT), for new or modified major stationary sources, apply greater emissions offsets than required for a Marginal area under the state's nonattainment NSR program, develop a basic vehicle inspection and maintenance program consistent with established population criteria, meet certain Rate of Progress or Reasonable Further Progress (RFP) requirements, and develop contingency measures for failure to meet RFP or timely attain the NAAQS.

On March 6, 2015, the EPA established a final implementation rule for the 2008 ozone NAAQS (2008 Ozone SIP Requirements Rule).[11] That action detailed the attainment planning and control requirements applicable to

[2] National Ambient Air Quality Standards for Ozone; final rule (73 FR 16436; March 27, 2008).

[3] Since the 2008 primary and secondary NAAQS for ozone are identical, the EPA refers to both as the ''2008 ozone NAAQS.''

[4] *See* 40 CFR 50.15. The 8-hour primary and secondary ozone standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm.

[5] *See* CAA section 107(d)(1) and CAA section 181(a)(1).

[6] The 8-hour ozone design value occurs at the area's ambient air quality monitoring site having the highest fourth-highest 8-hour concentration of ozone during a 3-year period.

[7] *See* CAA section 181(a)(1).

[8] Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards; final rule (77 FR 30088; May 21, 2012 and 77 FR 34221; June 11, 2012).

[9] States within the Ozone Transport Region are further subject to CAA section 184.

[10] *See* CAA section 182(a).

[11] Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements; final rule (80 FR 12264; March 6, 2015).

ozone nonattainment areas and also established timelines for SIP submittals and compliance dates for implementing RACT in areas classified Moderate and above.

The attainment date for the 36 nonattainment areas initially classified as Marginal for the 2008 ozone NAAQS was July 20, 2015. On May 4, 2016, the EPA determined that for 11 of these areas, states failed to attain the standard by the attainment date and did not qualify for a 1-year attainment date extension. By operation of law, such areas were reclassified to Moderate. In the same action, the EPA established January 1, 2017, as the deadline for states to submit Moderate area attainment plans for those reclassified areas and for implementing RACT.[12] The EPA reclassified two additional areas from Marginal to Moderate in December 2016, both of which were also subject to the January 1, 2017, SIP submission and RACT compliance due dates.[13] [14]

III. Consequences of Findings of Failure To Submit

For plan requirements under subpart D, title I of the CAA, such as those for ozone nonattainment areas, if the EPA finds that a state has failed to make the required SIP submittal or that a submitted SIP is incomplete, then CAA section 179 establishes specific consequences, including the eventual imposition of mandatory sanctions for the affected area(s).[15] Additionally, such a finding triggers an obligation under CAA section 110(c) for the EPA to promulgate a FIP no later than 2 years from the effective date of the finding, if the affected state has not submitted, and the EPA has not approved, the required SIP submittal.[16]

If the EPA has not affirmatively determined that a state has submitted a complete SIP addressing the deficiency that is the basis for these findings within 18 months of the effective date of this rulemaking, or the submittal has not become complete by operation of law 6 months after submittal, then pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b)(2) will apply in the affected nonattainment area. If the EPA has not affirmatively determined that the state has submitted a complete SIP addressing the deficiencies that are the basis for these findings within 6 months after the offset sanction is imposed, or the submittal has not become complete by operation of law 6 months after submittal, then the highway funding sanction will apply in the affected nonattainment area, in accordance with CAA section 179(b)(1) and 40 CFR 52.31. The state must make the required SIP submittal and the EPA must take final action to approve the submittal within 2 years of the effective date of these findings; otherwise, the EPA is required to promulgate a FIP. This is required pursuant to CAA section 110(c), for the affected nonattainment area.

IV. Findings of Failure To Submit for States That Failed To Make a Moderate Nonattainment Area SIP Submittal

Based on a review of SIP submittals received as of the date of this final action, the EPA is finding that the states listed in Table 1 have failed to submit specific SIP elements for the 2008 ozone NAAQS required under subpart 2 of part D of title 1 of the CAA.

TABLE 1—FINDINGS OF FAILURE TO SUBMIT CERTAIN REQUIRED SIP ELEMENTS FOR 2008 OZONE NAAQS NONATTAINMENT AREAS

Region	State	Area name	Required SIP elements
2	NJ	New York-N. New Jersey-Long Island	• Contingency measures for volatile organic compounds (VOC) and oxides of nitrogen (NO_X); • Ozone attainment demonstration; • RACT Non-Control Techniques Guidelines for major stationary sources of VOC; • RACT for major stationary sources of NO_X; and • RFP for VOC and NO_X for Moderate nonattainment area.
5	IL	Chicago-Naperville	• Basic Vehicle Inspection and Maintenance (I/M) program; • Contingency measures for VOC and NO_X; • Nonattainment NSR program for Moderate nonattainment area; • Ozone attainment demonstration; • RACT Non-Control Techniques Guidelines for major stationary sources of VOC; • RACT for major stationary sources of NO_X; and • RFP for VOC and NO_X for Moderate nonattainment area.
9	CA	Kern County (Eastern Kern)	• Nonattainment NSR program for Moderate nonattainment area; and • RACT for major sources of NO_X.
9	CA	Mariposa County	• Emissions Statement; and • Nonattainment NSR for Moderate nonattainment area.
9	CA	Nevada County (Western part)	• Contingency measures for VOC and NO_X; • Emissions statement; • Ozone attainment demonstration; • RACT Non-Control Techniques Guidelines for major stationary sources of VOC; • RACT for major stationary sources of NO_X; and • RFP for VOC and NO_X for Moderate nonattainment area.

[12] *See* 80 FR 12264; March 6, 2015, Section III.D.1.b., What are the SIP requirements for the 2008 ozone NAAQS?

[13] Determination of Nonattainment and Reclassification of the Houston-Galveston-Brazoria 2008 8-Hour Ozone Nonattainment Area; Texas; final rule (81 FR 90207; December 14, 2016).

[14] Reclassification of the Sheboygan, Wisconsin Area to Moderate Nonattainment for the 2008 Ozone National Ambient Air Quality Standards; final rule (81 FR 91841; December 19, 2016).

[15] *See* 42 U.S.C. 7509.

[16] *See* 42 U.S.C. 7410(c).

V. Environmental Justice Considerations

The EPA believes that the human health or environmental risks addressed by this action will not have disproportionately high or adverse human health or environmental effects on minority, low-income, or indigenous populations. This is because it does not directly affect the level of protection provided to human health or environment under the ozone NAAQS. The purpose of this rule is to make findings that three states have failed to provide the EPA with the identified SIP submissions, which are required by the CAA for purposes of implementing the 2008 ozone NAAQS. As such, this action does not directly affect the level of protection provided for human health or the environment. Moreover, it is intended that the actions and deadlines resulting from this notice will lead to greater protection for United States citizens, including minority, low-income, or indigenous populations by ensuring that states meet their statutory obligation to develop and submit SIPs to ensure that areas make progress toward attaining the 2008 ozone NAAQS.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA. This final rule does not establish any new information collection requirement apart from what is already required by law. This rule relates to the requirement in the CAA for states to submit SIPs under sections 172 and 182 which address the statutory requirements that apply to areas designated as Moderate nonattainment for the ozone NAAQS.

D. Regulatory Flexibility Act (RFA)

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The rule is a finding that the named states have not submitted the necessary SIP revisions.

E. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This rule finds that several states have failed to submit SIP revisions that satisfy the nonattainment area planning requirements under sections 172 and 182 of the CAA for the 2008 ozone NAAQS. No tribe is subject to the requirement to submit an implementation plan under section 172, or under subpart 2 of part D of Title I of the CAA. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it is a finding that several states have failed to submit SIP revisions that satisfy the Moderate nonattainment area planning requirements under sections 172 and 182 of the CAA for the 2008 ozone NAAQS and does not directly or disproportionately affect children.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. In finding that several states have failed to submit SIP revisions that satisfy the Moderate nonattainment area planning requirements under sections 172 and 182 of the CAA for the 2008 ozone NAAQS, this action does not directly affect the level of protection provided to human health or the environment. The results of this evaluation are contained in Section V of this preamble titled ''Environmental Justice Considerations.''

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

M. Judicial Review

Section 307(b)(l) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final agency actions by the EPA under the CAA. This section provides, in part, that petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit, (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

The EPA has determined that this final rule consisting of findings of failure to submit certain of the required SIP revisions is ''nationally applicable'' within the meaning of section 307(b)(1) of the CAA. This final agency action affects three states with Moderate nonattainment areas located in three of the ten EPA Regional offices, and in

three different U.S. Federal Circuit Courts (3rd Circuit for New Jersey; 7th Circuit for Illinois; and 9th Circuit for California).

In addition, the EPA has determined that this rule has nationwide scope or effect because it addresses a common core of knowledge and analysis involved in formulating the decision and a common interpretation of the requirements of 40 CFR 51 appendix V applied to determining the completeness of SIPs in states across the country. This determination is appropriate because, in the 1977 CAA Amendments that revised CAA section 307(b)(l), Congress noted that the Administrator's determination that an action is of ''nationwide scope or effect'' would be appropriate for any action that has ''scope or effect beyond a single judicial circuit.'' H.R. Rep. No. 95–294 at 323–324, reprinted in 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of this action extends to the three judicial circuits that include the states across the country affected by this action. In these circumstances, CAA section 307(b)(1) and its legislative history authorize the Administrator to find the rule to be of ''nationwide scope or effect'' and, thus, to indicate that venue for challenges lies in the District of Columbia Circuit. Accordingly, the EPA is determining that this rule is of nationwide scope or effect.

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 District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**. Filing a petition for review by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action.

List of Subjects in 40 CFR Part 52

Environmental protection, Approval and promulgation of implementation plans, Administrative practice and procedures, Incorporation by reference, Air pollution control, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: November 29, 2017.

William L. Wehrum,

Assistant Administrator.

[FR Doc. 2017–26537 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2017–0472; FRL–9968–24–OAR]

RIN 2060–AT53

Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector To Incorporate Latest Edition of Certain Industry, Consensus-Based Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking direct final action to modify the use conditions required for use of three flammable refrigerants, isobutane (R–600a), propane (R–290), and R–441A, in new household refrigerators, freezers, and combination refrigerators and freezers under the Significant New Alternatives Policy (SNAP) program. The use conditions, which address safe use of flammable refrigerants, are being revised to reflect the incorporation by reference of an updated standard from Underwriters Laboratories.

DATES: This rule is effective on March 12, 2018 without further notice, unless EPA receives adverse comment by January 25, 2018. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. Any party requesting a public hearing must notify the contact listed below under **FOR FURTHER INFORMATION CONTACT** by December 18, 2017. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of March 12, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0472. 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 electronically through *https://www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue 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 Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Chenise Farquharson, Stratospheric Protection Division, Office of Atmospheric Programs (Mail Code 6205T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–7768; email address: *farquharson.chenise@epa.gov.* Notices and rulemakings under EPA's Significant New Alternatives Policy program are available on EPA's Stratospheric Ozone Web site at *https://www.epa.gov/snap/snap-regulations.*

SUPPLEMENTARY INFORMATION: We are modifying the use conditions for three flammable hydrocarbon refrigerants, isobutane (R–600a), propane (R–290), and R–441A, used in new household refrigerators, freezers, and combination refrigerators and freezers (hereafter ''household refrigerators and freezers'') by replacing four of the five use conditions in our previous hydrocarbon refrigerants rules (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015) with the updated Underwriters Laboratories (UL) Standard 60335–2–24 (2nd edition, April 28, 2017), ''Household and Similar Electrical Appliances—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers.'' See EPA's two previous rules (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015) for information on the SNAP program and the use conditions for isobutane, propane, and R–441A. UL Standard 60335–2–24 supersedes the current edition of UL Standard 250 (10th edition, August 25, 2000), ''Household Refrigerators and Freezers,'' which EPA previously incorporated by reference in the use conditions of the acceptability listings for these three refrigerants (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015). This action applies to new refrigerators, freezers, and combination refrigerator and freezers manufactured after the effective date of this regulation. This action does not place any significant burden on the regulated community and ensures consistency with standard industry practices.

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and

anticipate no adverse comment. In the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to modify these use conditions if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that all or part of this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

If requested by the date specified in the **DATES** section of this notice, EPA will hold a public hearing to accept oral testimony on this proposal on or before December 26, 2017 in Washington, DC. EPA will post all information regarding any public hearing on this proposed action, including whether a hearing will be held, its location, date, and time, if applicable, and any updates online at *https://www.epa.gov/snap.* In addition, you may contact Ms. Chenise Farquharson at (202) 564–7768 or by email at *farquharson.chenise@epa.gov* with public hearing inquiries. EPA does not intend to publish any future notices in the **Federal Register** regarding a public hearing on this action and directs all inquiries regarding a hearing to the Web site and contact person identified above.

You may claim that information in your comments is CBI, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as CBI, we request that you submit them directly to Chenise Farquharson at the address under **FOR FURTHER INFORMATION CONTACT** in two versions: One clearly marked ''Public'' to be filed in the Public Docket, and the other marked ''Confidential'' to be reviewed by authorized government personnel only. This information will remain confidential unless EPA determines, in accordance with 40 CFR part 2, subpart B, that the information is not subject to protection as CBI.

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C. Paperwork Reduction Act
D. Regulatory Flexibility Act
E. Unfunded Mandates Reform Act
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act
V. References

I. Does this action apply to me?

This final rule regulates the use of three flammable hydrocarbon refrigerants, isobutane, propane, and the hydrocarbon blend R–441A, in new household refrigerators and freezers. Table 1 identifies industry subsectors that may wish to explore the use of these flammable refrigerants in this end-use or that may work with equipment using these refrigerants in the future. Regulated entities may include:

TABLE 1—POTENTIALLY REGULATED ENTITIES BY NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) CODE

Category	NAICS code	Description of regulated entities
Industry	333415	Manufacturers of Refrigerators, Freezers, and Other Refrigerating or Freezing Equipment, Electric or Other (NESOI); Heat Pumps Not Elsewhere Specified or Included; and Parts Thereof.
Industry	335222	Household Refrigerator and Home Freezer Manufacturing.
Industry	811412	Appliance Repair and Maintenance.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR part 82. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. What is the affected end-use?

Household refrigerators, freezers, and combination refrigerators and freezers are intended primarily for residential use, although they may be used outside the home (*e.g.,* workplace kitchen pantries). The designs and refrigeration capacities of equipment vary widely. This equipment is composed of three main categories—household freezers only offer storage space at freezing temperatures, household refrigerators only offer storage space at non-freezing temperatures, and products with both a refrigerator and freezer in a single unit are most common and are referred to as combination refrigerators and freezers. Small refrigerated household appliances exist (*e.g.,* chilled kitchen drawers, wine coolers, and mini-fridges) that are also within this end-use. Throughout this notice, we refer to all of these uses with the phrase ''household refrigerators and freezers.'' Household refrigerators and freezers have all refrigeration components integrated, and for the smallest types, the refrigeration circuit is entirely brazed or welded. These systems are charged with refrigerant at the factory and typically require only an electricity supply to begin operation.

The 2014 American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Handbook of Refrigeration provides an overview of food preservation in regards to household refrigerators and freezers. Generally, a storage temperature between 32 and 39 °F (0 to 3.9 °C) is desirable for preserving fresh food.

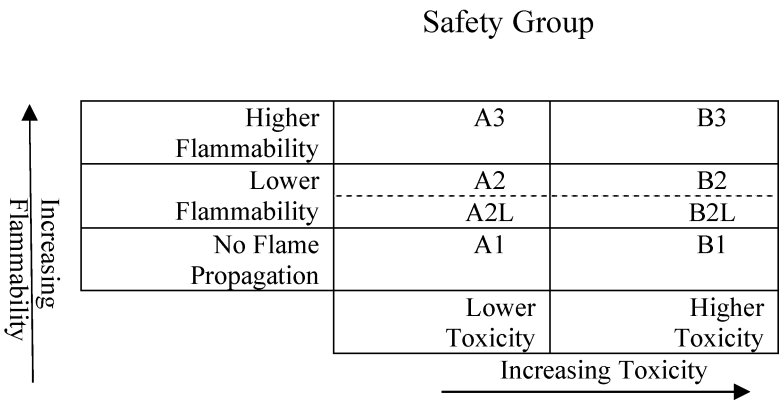
Humidity and higher or lower temperatures are more suitable for certain foods and beverages. Wine chillers, for example, are frequently used for storing wine, and have slightly higher optimal temperatures from 45 to 65 °F (7.2 to 18.3 °C). Freezers and combination refrigerators and freezers that are designed to store food for long durations have temperatures below 8 °F (−13.3 °C) and are designed to hold temperatures near 0 to 5 °F (−17.7 to −15 °C). In single-door refrigerators, the optimum conditions for food preservation are typically warmer than this due to the fact that food storage is not intended for long-term storage.

B. Refrigerant Flammability

American National Standards Institute (ANSI)/ASHRAE Standard 34–2016 assigns a safety group classification for each refrigerant which consists of two alphanumeric characters (*e.g.,* A2 or B1). The capital letter indicates the toxicity and the numeral denotes the flammability. ASHRAE classifies Class A refrigerants as refrigerants for which toxicity has not been identified at concentrations less than or equal to 400 parts per million (ppm) by volume, based on data used to determine threshold limit values (TLV)–time weighted average (TWA) or consistent indices. Class B signifies refrigerants for which there is evidence of toxicity at concentrations below 400 ppm by volume, based on data used to determine TLV–TWA or consistent indices. The refrigerants are also assigned a flammability classification of 1, 2, or 3. Tests are conducted in accordance with American Society for Testing and Materials (ASTM) E681 using a spark ignition source at 60 °C and 101.3 kPa.[1]

The flammability classification ''1'' is given to refrigerants that, when tested, show no flame propagation. The flammability classification ''2'' is given to refrigerants that, when tested, exhibit flame propagation, have a heat of combustion less than 19,000 kJ/kg (8,174 British thermal units (BTU)/lb), and have a lower flammability limit (LFL) greater than 0.10 kg/m^3. Refrigerants within flammability classification ''2'' may optionally be designated in the subclass ''2L'' if they have a maximum burning velocity of 10 cm/s or lower when tested at 23.0 °C and 101.3 kPa. The flammability classification ''3'' is given to refrigerants that, when tested, exhibit flame propagation and that either have a heat of combustion of 19,000 kJ/kg (8,174 BTU/lb) or greater or an LFL of 0.10 kg/m^3 or lower. Thus, refrigerants with flammability classification ''3'' are highly flammable while those with flammability classification ''2'' are less flammable and those with flammability classification ''2L'' are mildly flammable. For both toxicity and flammability classifications, refrigerant blends are designated based on the worst-case of fractionation determined for the blend. Figure 1 illustrates these safety group classifications.

Figure 1. Refrigerant Safety Group Classification



C. Use Conditions

EPA previously found isobutane, propane, and R–441A acceptable, subject to use conditions, in new household refrigerators and freezers. In the proposed and final rules, EPA provided information on the environmental and health properties of the three refrigerants and the various substitutes available for use in household refrigerators and freezers. Additionally, EPA's risk screens for the three refrigerants are available in the docket for these rulemakings (EPA–HQ–OAR–2009–0286 and EPA–HQ–OAR–2013–0748).[2] [3]

Isobutane, propane, and R–441A have an ASHRAE classification of A3, indicating that they have low toxicity and high flammability. The flammability risks are of concern because household refrigerators and freezers have traditionally used refrigerants that are not flammable. In the presence of an ignition source (*e.g.,* static electricity, a spark resulting from a closing door, or a cigarette), an explosion or a fire could occur if the concentration of isobutane, propane, and R–441A were to exceed the LFL of 18,000 ppm, 21,000 ppm, and 20,500 ppm, respectively.

To address flammability, EPA listed the refrigerants as acceptable, subject to use conditions, in new household refrigerators and freezers. The use conditions address safe use of flammable refrigerants and include incorporation by reference of Supplement SA to UL Standard 250, refrigerant charge size limits, and requirements for markings on equipment using the refrigerants to inform consumers and technicians of potential flammability hazards. Without appropriate use conditions, the flammability risk posed by the refrigerants could be higher than non-flammable refrigerants because

[1] ASHRAE, 2016. ANSI/ASHRAE Standard 34–2016: Designation and Safety Classification of Refrigerants.

[2] Isobutane and R–441A: 75 FR 25799, May 10, 2010 (proposed rule); 76 FR 78832, December 20, 2011 (final rule).

[3] Propane: 79 FR 38811, July 9, 2014 (proposed rule); 80 FR 19454, April 10, 2015 (final rule).

individuals may not be aware that their actions could potentially cause a fire, and because the refrigerants could be used in existing equipment that has not been designed specifically to minimize flammability risks. Our assessment and listing decisions (76 FR 78832; December 20, 2011 and 80 FR 19454; April 10, 2015) found that with the use conditions, the overall risk of these substitutes, including the risk due to flammability, does not present significantly greater risk in the end-use than other substitutes that are currently or potentially available for that same end-use.

The use conditions required the following:

1. *New equipment only; not intended for use as a retrofit alternative:* These refrigerants may be used only in new equipment designed specifically and clearly identified for the refrigerant (*i.e.,* none of these substitutes may be used as a conversion or ''retrofit'' [4] refrigerant for existing equipment designed for a different refrigerant);

2. *UL standard:* These refrigerants may be used only in a refrigerator or freezer, or combination refrigerator and freezer, that meets all requirements listed in Supplement SA to the 10th edition of the UL Standard for Household Refrigerators and Freezers, UL 250, dated August 25, 2000). In cases where the final rule includes requirements more stringent than those of the 10th edition of UL Standard 250, the appliance must meet the requirements of the final rule in place of the requirements in the UL standard;

3. *Charge size:* The charge size must not exceed 57 grams (2.01 ounces) in any refrigerator, freezer, or combination refrigerator and freezer in each circuit;

4. *Color-coded hoses and piping:* As provided in clauses SA6.1.1 and SA6.1.2 of UL Standard 250, 10th edition, the refrigerator, freezer, or combination refrigerator and freezer must have red Pantone Matching System (PMS) #185 marked pipes, hoses, or other devices through which the refrigerant passes, to indicate the use of a flammable refrigerant. This color must be present at all service ports and other parts of the system where service puncturing or other actions creating an opening from the refrigerant circuit to the atmosphere might be expected and must extend a minimum of one (1) inch in both directions from such locations; and

5. *Labeling:* The following markings, or the equivalent, must be provided and must be permanent:

a. ''DANGER—Risk of Fire or Explosion. Flammable Refrigerant Used. Do Not Use Mechanical Devices To Defrost Refrigerator. Do Not Puncture Refrigerant Tubing.'' This marking must be provided on or near any evaporators that can be contacted by the consumer.

b. ''DANGER—Risk of Fire or Explosion. Flammable Refrigerant Used. To Be Repaired Only By Trained Service Personnel. Do Not Puncture Refrigerant Tubing.'' This marking must be located near the machine compartment.

c. ''CAUTION—Risk of Fire or Explosion. Flammable Refrigerant Used. Consult Repair Manual/Owner's Guide Before Attempting To Service This Product. All Safety Precautions Must be Followed.'' This marking must be located near the machine compartment.

d. ''CAUTION—Risk of Fire or Explosion. Dispose of Properly In Accordance With Federal Or Local Regulations. Flammable Refrigerant Used.'' This marking must be provided on the exterior of the refrigeration equipment.

e. ''CAUTION—Risk of Fire or Explosion Due To Puncture Of Refrigerant Tubing; Follow Handling Instructions Carefully. Flammable Refrigerant Used.'' This marking must be provided near all exposed refrigerant tubing.

f. All of these markings must be in letters no less than 6.4 mm (¼ inch) high.

D. Revised UL Standard 60335–2–24

UL first established Standard 60335–2–24 on August 21, 2006, to address the safety of household and similar electrical appliances that use flammable refrigerants. Specifically, the standard applies to the safety of refrigerating appliances for household and similar use, ice-makers incorporating a motor-compressor and ice-makers intended to be incorporated in frozen food storage compartments, and refrigerating appliances and ice-makers for use in camping, touring caravans and boats for leisure purposes. In response to industry's interest to reconsider the use of flammable refrigerants in refrigeration and air conditioning (AC) equipment and at larger charge sizes, UL formed a Joint Task Group (JTG) comprised of members of its Standards Technical Panel (STP) in 2011. The JTG was tasked with developing recommendations for addressing the use and safety of refrigerants classified as A2, A2L, and A3.

One of the outcomes of the work of the JTG is the revised UL Standard 60335–2–24, which is based on International Electrotechnical Commission (IEC) Standard 60335–2–24 ''Household and Similar Electrical Appliances—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers'' (edition 7.1, May 2012). The revised UL Standard 60335–2–24 was developed in an open and consensus-based approach, with the assistance of experts in the refrigeration and AC industry as well as experts involved in assessing the safety of products. The revision cycle, including final recirculation, concluded on February 6, 2017, and UL published the updated standard on April 28, 2017. The 2017 standard supersedes the previous edition published in August 2006, and also replaces the current edition of UL Standard 250 (10th edition, August 2000).

The revised UL Standard 60335–2–24 establishes requirements for the evaluation of household and similar electrical appliances and the safe use of refrigerants with a flammability classification of A2, A2L, or A3. The charge size limit for each separate refrigerant circuit (*i.e.,* compressor, condenser, evaporator, and refrigerant piping) is 150 grams (5.3 ounces). This differs from the charge size limit in Supplement SA to UL 250, which was 50 grams. Similar to Supplement SA to UL 250, UL Standard 60335–2–24 requires testing of refrigeration appliances containing flammable refrigerants, including leakage tests, temperature and scratch tests, and heat testing requirements to address the hazards due to ignition of leaked refrigerant by potential ignition sources associated with the appliance (see sections 22.107–22.110 and the relevant annexes of the standard for specific testing requirements). These tests are intended, among other things, to ensure that any leaks will result in concentrations well below the LFL, and that potential ignition sources will not be able to create temperatures high enough to start a fire. Appliances that are in compliance with UL Standard 60335–2–24 have passed appropriate ignition or leakage tests as stipulated in the standard. Passing the leakage test ensures that refrigerant concentrations in the event of a leak do not reach or exceed 75 percent of the LFL inside any internal or external electrical component compartments.

III. What action is the Agency taking?

A. Use Conditions

In this direct final rule, EPA is replacing the reference to the 2000 UL Standard 250 in use condition ''2'' with the updated 2017 UL Standard 60335–2–24 ''Safety Requirements for

[4] Sometimes conversion refrigerant substitutes are inaccurately referred to as ''drop in'' replacements.

Household and Similar Electrical Appliances, Part 2: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers'' (2nd Edition, April 28, 2017). In addition, EPA is replacing the use conditions in ''3,'' ''4,'' and ''5'' with the updated 2017 UL standard 60335–2–24 because the UL standard provides for the identical requirements in those use conditions and thus provides the same level of assurance that the three substitutes can be used as safely as nonflammable alternatives. The revised use conditions apply to new household refrigerators and freezers manufactured after the effective date of this regulation. The new use conditions are as follows:

1. *New equipment only; not intended for use as a retrofit alternative:* Propane, isobutane, and R–441A may be used only in new equipment designed specifically and clearly identified for the refrigerant (*i.e.,* none of these substitutes may be used as a conversion or ''retrofit'' [5] refrigerant for existing equipment designed for a different refrigerant); and

2. *UL standard:* These refrigerants may be used only in equipment that meets all requirements in UL Standard 60335–2–24 (2nd edition, April 28, 2017).

a. Charge Size

EPA previously required a charge size limit of 57 grams (2.01 ounces) for each separate refrigerant circuit in a refrigerator or freezer in use condition ''3.'' In this action, EPA is removing use condition ''3.'' To comply with UL Standard 60335–2–24, the maximum charge size for each separate refrigerant circuit in a refrigerator or freezer would need to be 150 grams (5.29 ounces), consistent with UL Standard 60335–2–24.

EPA evaluated reasonable worst-case and more typical, yet conservative, scenarios to model the effects of the sudden release of each refrigerant from a household refrigerator or freezer containing the maximum charge size of 150 grams (5.29 ounces). This was done to determine whether the refrigerants would present flammability or toxicity concerns for consumers or workers, including those servicing or disposing of appliances. To represent a reasonable worst-case scenario, it was assumed that a catastrophic leak of each refrigerant would occur while the refrigerator or freezer unit is located in a residential kitchen with a height of approximately 2.4 meters (*i.e.,* a standard 8-foot ceiling) and a minimum effective volume of 18 m^3 (640 ft^3) or an effective volume of 53 m^3 (1,870 ft^3) (*i.e.,* excluding the space filled by cabinets, other kitchen equipment) (Murray 1997). The minimum kitchen volume of 18 m^3 (640 ft^3) does not consider residential kitchen spaces that are often connected to other rooms (*e.g.,* living room, dining room) through open pathways or swinging doors, which would also increase the effective volume of the space into which a refrigerant would be released, thereby reducing the likelihood that the instantaneous concentration of the refrigerants would exceed the LFL. Conversely, the larger kitchen volume used in the analysis (*i.e.,* 53 m^3) considers air-mixing that is likely to occur within the spaces that are adjacent to the kitchen (Murray 1997). Both kitchen volumes modeled in this analysis are conservative, as the average kitchen zone volume in the United States is 199 m^3; the minimum kitchen zone volume is 31 m^3; and 99 percent of the sampled kitchen zones are larger than 53 m^3 (Murray 1997).

EPA's analysis for each of the refrigerants revealed that even if the unit's full charge were emitted within one minute, the concentration would not reach the LFL for that refrigerant in the less conservative 53 m^3 (1,870 ft^3) kitchen, showing a lack of flammability risk. The threshold analyses demonstrated that a flammability concern could exist in the minimum modeled kitchen volume (*i.e.,* 18 m^3 (640 ft^3)) if the charge size of the household refrigerator or freezer exceeded 120 grams, which is slightly smaller than the maximum modeled charge size (*i.e.,* 150 grams). However, the estimated exposures were derived using conservative assumptions (*e.g.,* small room size, no ventilation). A 150-gram household refrigeration unit would have to be installed in a kitchen at least 2.3 times smaller than the less conservative kitchen size modeled in the worst-case conditions at end-use in order for flammability to be of concern. As a result, EPA determined that a release of a 150-gram unit does not present a significant flammability risk in the reasonable worst-case scenario for the three refrigerants in household refrigerators and freezers.

Concerning toxicity of the refrigerants, our risk screens find that the 30-minute acute exposure guideline level (AEGL) (*i.e.,* 6,900 ppm) is exceeded only in the worst-case scenario for the minimum kitchen volume (*i.e.,* 18 m^3). Based upon our analysis, the minimum room sizes in which installed equipment could cause a toxicity concern would have to be approximately 0.8 times smaller than the maximum modeled room size of 53 m^3 (1,870 ft^3), which is a conservative kitchen volume in the United States (Murray 1997). Thus, we have determined that isobutane, propane, and R–441A do not pose significantly greater flammability and toxicity risks than other acceptable refrigerants in the household refrigerators and freezers end-use. The higher charge size included in the revised use condition will provide greater flexibility to appliance manufacturers in the design of equipment while also ensuring that such equipment will not pose greater risk than similar equipment using other acceptable alternatives. For more information about EPA's risk assessments, see the docket for this rulemaking (EPA–HQ–OAR–2017–0472).

b. Color-Coded Hoses and Piping, and Labeling

UL Standard 60335–2–24 includes requirements for red PMS #185 marked pipes, hoses, and other devices through which the refrigerant passes, and requirements for markings in letters no less than 6.4 mm (¼ inch) high to inform consumers and technicians of potential flammability hazards are addressed in (see sections 7.1 and 22.106 of the standard for additional information on the required marking and warning labels). Retaining the use conditions in ''4'' and ''5'' in EPA's previous hydrocarbon refrigerants rules would be redundant of the updated standard. Therefore, we are replacing the use conditions in ''4'' and ''5'' with UL Standard 60335–2–24.

B. Incorporation by Reference

Through this action EPA is incorporating by reference UL Standard 60335–2–24, ''Safety Requirements for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers'' (2nd edition, April 2017), which establishes requirements for the evaluation of household and similar electrical appliances, and safe use of flammable refrigerants. This approach is the same as that used to incorporate Supplement SA to UL 250 10th edition in our previous rules on flammable refrigerants (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015).

The UL standard is available for purchase by mail at: COMM 2000, 151 Eastern Avenue, Bensenville, IL 60106; Email: *orders@shopulstandards.com*; Telephone: 1–888–853–3503 in the U.S. or Canada (other countries dial 1–415–

[5] Sometimes conversion refrigerant substitutes are inaccurately referred to as ''drop in'' replacements.

352–2178); Internet address: *http://www.shopulstandards.com/ProductDetail.aspx?productId=UL60335-2-24_2_B_20170428(ULStandards2).* The cost of UL 60335–2–24 is $454 for an electronic copy and $567 for hardcopy. UL also offers a subscription service to the Standards Certification Customer Library (SCCL) that allows unlimited access to their standards and related documents. The cost of obtaining this standard is not a significant financial burden for equipment manufacturers and purchase is not required for those selling, installing and servicing the equipment. Therefore, EPA concludes that the UL standard being incorporated by reference is reasonably available.

C. Equipment Manufactured Prior to Effective Date of This Rule

The use conditions in this rule apply to new household refrigerators and freezers manufactured after the effective date of this regulation. New household refrigerators and freezers manufactured and used with isobutane on or after January 19, 2012, or such equipment manufactured and used with propane or R–441A on or after May 10, 2015, was required to meet the requirements of the earlier use conditions of the December 20, 2011 and April 10, 2015 final rules, including compliance with UL 250 (10th edition, August 25, 2000), ''Household Refrigerators and Freezers.'' This rule does not apply to or affect equipment manufactured before the effective date of this rule and which was manufactured in compliance with the SNAP requirements applicable at the time of manufacture.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection requirements contained in the existing regulations and has assigned OMB control number 2060–0226. This rule contains no new requirements for reporting or recordkeeping.

D. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule.

The use conditions of this rule apply to manufacturers of new household refrigerators and freezers, that choose to use flammable refrigerants. This action allows equipment manufacturers to use flammable refrigerants at a higher charge size than previously allowed in new household refrigerators and freezers but does not mandate such use; the change to the use conditions allows more flexibility for manufacturers in the design of equipment and thus reduces the regulatory burden to the regulated community. In some cases, it may reduce costs by allowing manufacturers to design equipment with a single, larger refrigerant circuit instead of multiple, smaller refrigerant circuits for the same piece of equipment.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in risk screens for the various substitutes.[6] [7] [8] The risk screens are available in the docket for this rulemaking.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves a technical standard. EPA is revising the use conditions for the household refrigerators and freezers end-use by incorporating by reference the UL Standard 60335–2–24, ''Safety Requirements for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers'' (2nd edition, April 2017), which establishes requirements for the evaluation of household and similar electrical appliances, and safe use of flammable refrigerants. UL Standard 60335–2–24

[6] ICF, 2017a. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: Propane (R–290).

[7] ICF, 2017b. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: Isobutane (R–600a).

[8] ICF, 2017c. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: R–441A.

supersedes the current edition of UL Standard 250, Supplement SA, ''Requirements for Refrigerators and Freezers Employing a Flammable Refrigerant in the Refrigerating System'' (10th Edition, August 2000). EPA's revision to the use conditions will replace the 2000 UL standard 250 with the 2017 UL standard 60335–2–24. This standard is available at *https://standardscatalog.ul.com/standards/en/standard_60335–2–24_2,* and may be purchased by mail at: COMM 2000, 151 Eastern Avenue, Bensenville, IL 60106; Email: *orders@shopulstandards.com;* Telephone: 1–888–853–3503 in the U.S. or Canada (other countries dial 1–415–352–2178); Internet address: *http://www.shopulstandards.com/ProductDetail.aspx?productId=UL60335-2-24_2_B_20170428(ULStandards2).* The cost of UL 60335–2–24 is $454 for an electronic copy and $567 for hardcopy. UL also offers a subscription service to the Standards Certification Customer Library (SCCL) that allows unlimited access to their standards and related documents. The cost of obtaining this standard is not a significant financial burden for equipment manufacturers and purchase is not required for those selling, installing and servicing the equipment. Therefore, EPA concludes that the UL standard being incorporated by reference is reasonably available.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action's health and environmental risk assessments are contained in the risk screens for the various substitutes. The risk screens are available in the docket for this rulemaking.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. References

Unless specified otherwise, all documents are available electronically through the Federal Docket Management System, Docket # EPA–HQ–OAR–2017–0472.

ASHRAE, 2016. ANSI/ASHRAE Standard 34–2016: Designation and Safety Classification of Refrigerants.

ICF, 2017a. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: Propane (R–290).

ICF, 2017b. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: Isobutane (R–600a).

ICF, 2017c. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: R–441A.

Murray, D.M. (1997). Residential house and zone volumes in the United States: empirical and estimated parametric distributions. *Risk Anal* 17: 439–446. Available online at: *http://onlinelibrary.wiley.com/doi/10.1111/j.1539-6924.1997.tb00884.x/full.*

UL 250. Household Refrigerators and Freezers. 10th edition. Supplement SA: Requirements for Refrigerators and Freezers Employing a Flammable Refrigerant in the Refrigerating System. August 2000.

UL 60335–2–24. Safety Requirements for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers. 2nd edition. April 2017.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Recycling, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: November 20, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart G—Significant New Alternatives Policy Program

■ 2. Amend Appendix R to subpart G of part 82 by:

■ a. Revising the heading;

■ b. Removing the two entries in the table for ''Household refrigerators, freezers, and combination refrigerators and freezers (New equipment only)'' and adding a new entry in their place; and

■ c. Revising the NOTE at the end of the table.

The revisions and additions to read as follows:

Appendix R to Subpart G of Part 82—Substitutes Subject to Use Restrictions Listed in the December 20, 2011, Final Rule, Effective February 21, 2012, in the April 10, 2015 Final Rule, Effective May 11, 2015, and in the December 11, 2017 Final Rule, Effective March 12, 2018

SUBSTITUTES THAT ARE ACCEPTABLE SUBJECT TO USE CONDITIONS

End-use	Substitute	Decision	Use conditions	Further information
Household refrigerators, freezers, and combination refrigerators and freezers (New equipment only).	Isobutane (R-600a) Propane (R-290) R-41A.	Acceptable subject to use conditions.	As of March 12, 2018:[9] These refrigerants may be used only in new equipment designed specifically and clearly identified for the refrigerant (i.e., none of these substitutes may be used as a conversion or ''retrofit'' refrigerant for existing equipment designed for a different refrigerant). These refrigerants may be used only in a refrigerator or freezer, or combination refrigerator and freezer, that meets all requirements listed in the 2nd edition of the Underwriters Laboratories (UL) Standard for Safety: Household and Similar Electrical Appliances—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers, UL 60335–2–24, dated April 28, 2017.	Applicable OSHA requirements at 29 CFR part 1910 must be followed, including those at 29 CFR 1910.106 (flammable and combustible liquids), 1910.110 (storage and handling of liquefied petroleum gases), 1910.157 (portable fire extinguishers), and 1910.1000 (toxic and hazardous substances).Proper ventilation should be maintained at all times during the manufacture and storage of equipment containing hydrocarbon refrigerants through adherence to good manufacturing practices as per 29 CFR 1910.106. If refrigerant levels in the air surrounding the equipment rise above one-fourth of the lower flammability limit, the space should be evacuated and re-entry should occur only after the space has been properly ventilated. Technicians and equipment manufacturers should wear appropriate personal protective equipment, including chemical goggles and protective gloves, when handling these refrigerants. Special care should be taken to avoid contact with the skin since these refrigerants, like many refrigerants, can cause freeze burns on the skin. A Class B dry powder type fire extinguisher should be kept nearby. Technicians should only use spark-proof tools when working on refrigerators and freezers with these refrigerants. Any recovery equipment used should be designed for flammable refrigerants. Any refrigerant releases should be in a well-ventilated area, such as outside of a building. Only technicians specifically trained in handling flammable refrigerants should service refrigerators and freezers containing these refrigerants. Technicians should gain an understanding of minimizing the risk of fire and the steps to use flammable refrigerants safely.

* * * * * * *

Note: The use conditions in this appendix contain references to certain standards from Underwriters Laboratories Inc. (UL). The standards are incorporated by reference, and the referenced sections are made part of the regulations in part 82:

1. UL 471. Commercial Refrigerators and Freezers. 10th edition. Supplement SB: Requirements for Refrigerators and Freezers Employing a Flammable Refrigerant in the Refrigerating System. Underwriters Laboratories, Inc. November 24, 2010.
2. UL 484. Room Air Conditioners. 8th edition. Supplement SA: Requirements for Room Air Conditioners Employing a Flammable Refrigerant in the Refrigerating System and Appendices B through F. December 21, 2007, with changes through August 3, 2012.
3. UL 541. Refrigerated Vending Machines. 7th edition. Supplement SA: Requirements for Refrigerated Venders Employing a Flammable Refrigerant in the Refrigerating System. December 30, 2011
4. UL Standard 60335–2–24. Standard for Safety: Requirements for Household and Similar Electrical Appliances,—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers, Second edition, dated April 28, 2017.

The Director of the Federal Register approves the incorporation by reference of the material under ''Use Conditions'' in the table ''SUBSTITUTES THAT ARE ACCEPTABLE SUBJECT TO USE CONDITIONS'' (5 U.S.C. 552(a) and 1 CFR part 51). Copies of UL Standards 60335–2–24, 471, 484, and 541 may be purchased by mail at: COMM 2000, 151 Eastern Avenue, Bensenville, IL 60106; Email: *orders@shopulstandards.com;* Telephone: 1–888–853–3503 in the U.S. or Canada (other countries dial 1–415–352–2178); Internet address: *http://www.shopulstandards.com/Catalog.aspx.*

You may inspect a copy at U.S. EPA's Air Docket; EPA West Building, Room 3334; 1301 Constitution Ave. NW.; Washington, DC or at the National Archives and Records Administration (NARA). For questions regarding access to these standards, the telephone number of EPA'S Air Docket is 202–566–1742. 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.*

* * * * *

[FR Doc. 2017–26085 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

[9] Prior to this date, manufacturers of new household refrigerants and freezers must comply with the use conditions in EPA's previous hydrocarbon refrigerants rules (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015), codified at 40 CFR part 82, Appendix R to subpart G, which include a charge limit of 57 grams for each separate refrigerant circuit and a requirement to meet Supplement SA to the UL 250 Standard, 10th edition, for household refrigerators and freezers.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170120106–7999–01]

RIN 0648–XF186

Pacific Island Fisheries; 2017 Annual Catch Limits and Accountability Measures

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

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies annual catch limits (ACLs) for Pacific Island crustacean, precious coral, and territorial bottomfish fisheries, and accountability measures (AMs) to correct or mitigate any overages of catch limits. The ACLs and AMs will be effective for fishing year 2017. Although the 2017 fishing year has nearly ended for most stocks, we will evaluate 2017 catches against these final ACLs when data become available in mid-2018. The proposed ACLs and AMs support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: The final specifications are effective January 10, 2018. The final specifications are applicable from January 1, 2017, through December 31,

2017, except for precious coral fisheries, which are applicable from July 1, 2017, through June 30, 2018.

ADDRESSES: Copies of the Fishery Ecosystem Plans for the Hawaiian Archipelago, American Samoa, and the Northern Mariana Islands are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org.* Copies of the environmental analyses and other supporting documents for this action, identified by NOAA–NMFS–2017–0012, are available at *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0012,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808–725–5173.

SUPPLEMENTARY INFORMATION: NMFS is specifying ACLs and AMs for the crustacean and precious corals MUS in American Samoa, Guam, the CNMI, and Hawaii, and the bottomfish MUS in American Samoa, Guam, and the CNMI for fishing year 2017. NMFS proposed these specifications on October 30, 2017 (82 FR 50112), and the final specifications do not differ from those proposed. The 2017 fishing year began on January 1 and ended on December 31, except for precious coral fisheries, which began on July 1, 2017, and ends on June 30, 2018. The final 2017 ACLs and AMs are identical to those that NMFS specified for 2016 (82 FR 18716, April 21, 2017).

The 2017 ACL for CNMI slipper lobsters is identical to the 2016 ACL, even though 2016 fishery data indicate that catch exceeded the 2016 ACL. For these lobsters, there is no estimate of the overfishing limit or maximum sustainable yield. Prior to 2016, there were only three years (2007–2009) of available catch information, so in 2014, the Council's Scientific and Statistical Committee recommended a proxy for calculating the ACL for CNMI slipper lobsters. Using a catch-to-habitat proxy with data from the Hawaii slipper lobster fishery (the only area that has specifically documented harvesting of slipper lobsters) the Council recommended setting an ACL for CNMI slipper lobsters in 2016–2018 at the allowable biological catch (60 lb). At its June 2017 meeting, the Council reviewed the 2016 CNMI slipper lobster catch and noted that the 304 lb reported catch, combined with zero reported catch in the previous two years, resulted in a three-year average catch of 101 lb, which exceeded the ACL. The Council determined that the increase in reported catch was due to the Territory Science Initiative (a pilot program to improve commercial vendor reporting in the CNMI) and the associated improvements in catch reporting, not due to actual increase in harvest. The Council also concluded that, based on current stock data, the overage was not likely to have had an impact on stock sustainability or result in overfishing. The Council concluded that applying the 2016 AM (which would have reduced the 2017 ACL by the amount of the overage) was not necessary and, instead, recommended maintaining the 2017 CNMI slipper lobster ACL at 60 lb. The three-year average catch of the other fisheries identified in this action did not exceed their respective ACLs.

In this action, NMFS is not specifying 2017 ACLs for Hawaii Kona crab and Hawaii non-Deep 7 bottomfish, or coral reef ecosystem MUS in any island area. This is because NMFS has new information that requires additional environmental analyses to support the Council's ACL recommendations for those MUS. NMFS may propose those ACL specifications in a separate action(s). In addition, NMFS has already specified the 2017–2018 ACL and AM for Hawaii Deep 7 bottomfish (82 FR 29778, June 30, 2017).

NMFS is also not specifying ACLs for MUS that are currently subject to Federal fishing moratoria or prohibitions. They include all species of gold coral (78 FR 32181, May 29, 2013), the three Hawaii seamount groundfish, that is pelagic armorhead, alfonsin, and raftfish (75 FR 69015, November 10, 2010), and all species of deep-water precious corals at the Westpac Bed Refugia (75 FR 2198, January 14, 2010). The current prohibitions on fishing for these MUS serve as a functional equivalent of an ACL of zero.

Additionally, NMFS is not specifying ACLs for bottomfish, crustacean, precious coral, or coral reef ecosystem MUS identified in the Pacific Remote Islands Area (PRIA) FEP. This is because fishing is prohibited in the EEZ within 12 nm of emergent land, unless authorized by the U.S. Fish and Wildlife Service (USFWS), pending the USFWS sending NMFS fishery data during consultation with NMFS and the Council (78 FR 32996, June 3, 2013). To date, NMFS has not received fishery data that would support any such approvals. There is also no suitable habitat for these stocks beyond the 12-nm no-fishing zone, except at Kingman Reef, where fishing for these resources does not occur. Therefore, the current prohibitions on fishing serve as the functional equivalent of an ACL of zero. However, NMFS will continue to monitor authorized fishing within the PRIA Monument in consultation with the U.S. Fish and Wildlife Service, and may develop additional fishing requirements, including monument-specific catch limits for species that may require them.

NMFS is not specifying ACLs for pelagic MUS because we previously determined that pelagic species are subject to international fishery agreements or have a life cycle of approximately one year and, therefore, have statutory exceptions to the ACL requirements. In addition, NMFS specified the 2017–2018 ACL and AM for Hawaii Deep 7 bottomfish earlier this year (82 FR 29778, June 30, 2017).

2017 Annual Catch Limits

Tables 1–4 specify the 2017 ACLs.

TABLE 1—AMERICAN SAMOA

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Bottomfish multi-species stock complex	106,000
Crustacean	Deepwater shrimp	80,000
	Spiny lobster	4,845
	Slipper lobster	30
	Kona crab	3,200
Precious Coral	Black coral	790
	Precious corals in the American Samoa Exploratory Area	2,205

TABLE 2—GUAM

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Bottomfish multi-species stock complex	66,000
Crustaceans	Deepwater shrimp	48,488
	Spiny lobster	3,135
	Slipper lobster	20
	Kona crab	1,900
Precious Coral	Black coral	700
	Precious corals in the Guam Exploratory Area	2,205

TABLE 3—CNMI

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Bottomfish multi-species stock complex	228,000
Crustacean	Deepwater shrimp	275,570
	Spiny lobster	7,410
	Slipper lobster	60
	Kona crab	6,300
Precious Coral	Black coral	2,100
	Precious corals in the CNMI Exploratory Area	2,205

TABLE 4—HAWAII

Fishery	Management unit species	Proposed ACL specification (lb)
Crustacean	Deepwater shrimp	250,773
	Spiny lobster	15,000
	Slipper lobster	280
Precious Coral	Auau Channel black coral	5,512
	Makapuu Bed—Pink coral	2,205
	Makapuu Bed—Bamboo coral	551
	180 Fathom Bank—Pink coral	489
	180 Fathom Bank—Bamboo coral	123
	Brooks Bank—Pink coral	979
	Brooks Bank—Bamboo coral	245
	Kaena Point Bed—Pink coral	148
	Kaena Point Bed—Bamboo coral	37
	Keahole Bed—Pink coral	148
	Keahole Bed—Bamboo coral	37
	Precious corals in the Hawaii Exploratory Area	2,205

Accountability Measures

Federal logbook entries and required catch reporting from fisheries in Federal waters are not sufficient to monitor and track catches towards the ACL specifications accurately. This is because most fishing for bottomfish, crustacean, precious coral, and coral reef ecosystem MUS occurs in state waters, generally 0–3 nm from shore. For these reasons, NMFS will apply a moving 3-year average catch to evaluate fishery performance against the ACLs. Specifically, NMFS and the Council will use the average catch during fishing year 2015, 2016, and 2017 to evaluate fishery performance against the appropriate 2017 ACL. At the end of each fishing year, the Council will review catches relative to each ACL. If NMFS and the Council determine that the three-year average catch for the fishery exceeds the specified ACL, NMFS and the Council will reduce the ACL for that fishery by the amount of the overage in 2018.

You may review additional background information on this action in the preamble to the proposed specifications (82 FR 50112; October 30, 2017); we do not repeat that information here.

Comments and Responses

The comment period for the proposed specifications ended on November 14, 2017. NMFS received no public comments. NMFS specifically invited public comments addressing the impact, if any, of the proposed specifications on cultural fishing practices in American Samoa. NMFS received no comments for these specifications regarding cultural fishing practices or impacts to such fishing practices in American Samoa. NMFS has no information that these ACLs and AMs will have any impact on American Samoa cultural fishing practices.

Changes From the Proposed Specifications

There are no changes in the final specifications from the proposed specifications.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fisheries,

and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. NMFS published the factual basis for certification in the proposed specifications, and does not repeat it here. NMFS did not receive comments regarding the certification and has no reason to think that anything has changed to affect it. As a result, a final regulatory flexibility analysis is not required, and one was not prepared.

This action is exempt from review under Executive Order 12866.

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

Dated: December 6, 2017.

Alan D. Risenhoover,

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

[FR Doc. 2017–26624 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 236
Monday, December 11, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–SC–17–0051; SC17–966–1 PR]

Tomatoes Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Florida Tomato Committee (Committee) for a decrease in the assessment rate established for the 2017–18 and subsequent fiscal periods of tomatoes grown in Florida, handled under the marketing order (Order). The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated. This proposed rule also makes administrative revisions to the subpart headings to bring the language into conformance with the Office of Federal Register requirements.

DATES: Comments must be received by January 10, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Steven W. Kauffman, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Steven.Kauffman@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement No. 125 and Order No. 966, as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida. Part 966, (hereinafter referred to as the ''Order''), is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers of tomatoes operating within the area of production.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate will be applicable to all assessable tomatoes beginning on August 1, 2017, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would decrease the assessment rate established for the Committee for the 2017–18 and subsequent fiscal periods from $0.035 to $0.025 per 25-pound container or equivalent of tomatoes handled.

The Order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2016–17 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information

submitted by the Committee or other information available to USDA.

The Committee met on August 22, 2017, and unanimously recommended 2017–18 expenditures of $1,494,600 and an assessment rate of $0.025 per 25-pound container or equivalent of tomatoes. Last year's budgeted expenditures were also $1,494,600. The assessment rate of $0.025 is $0.01 lower than the rate currently in effect. The Committee recommended decreasing the assessment rate to reduce the assessment burden on handlers and utilize funds from the authorized reserve to help cover Committee expenses.

The major expenditures recommended by the Committee for the 2017–18 year include $450,000 for staff salaries, $400,000 for research, and $400,000 for education and promotion. Budgeted expenses for these items in 2016–17 were also $450,000, $400,000, and $400,000, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of Florida tomatoes, and the level of funds in the authorized reserve. Tomato shipments for the year are estimated at 33 million 25-pound containers, which should provide $825,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $979,410) would be kept within the maximum permitted by the Order (approximately one fiscal period's expenses as stated in § 966.44).

The assessment rate proposed in this rule would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public, and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2017–18 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 80 producers of Florida tomatoes in the production area and 47 handlers subject to regulation under the Marketing Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average annual price for fresh Florida tomatoes during the 2016–17 season was approximately $8.00 per 25-pound container, and total fresh shipments were 32.8 million containers. Using the average price and shipment information, the number of handlers, and assuming a normal distribution, the majority of handlers have average annual receipts of less than $7,500,000. In addition, based on production data, an estimated producer price of $3.00 per 25-pound container, and the number of Florida tomato producers, the average annual producer revenue is above $750,000. Thus, a majority of the handlers of Florida tomatoes may be classified as small entities, while a majority of the producers may be classified as large entities.

This proposed rule would decrease the assessment rate established for the 2017–18 and subsequent fiscal periods from $0.035 to $0.025 per 25-pound container or equivalent of Florida tomatoes. The Committee unanimously recommended 2017–18 expenditures of $1,494,600 and an assessment rate of $0.025 per 25-pound container or equivalent handled. The assessment rate of $0.025 is $0.01 lower than the 2016–17 rate. The quantity of assessable Florida tomatoes for the 2017–18 fiscal period is estimated at 33 million 25-pound containers or equivalent. Thus, the $0.025 rate should provide $825,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2017–18 year include $450,000 for staff salaries, $400,000 for research, and $400,000 for education and promotion. Budgeted expenses for these items in 2016–17 were also $450,000, $400,000, and $400,000, respectively.

The Committee recommended decreasing the assessment rate to reduce the assessment burden on handlers and utilize funds from the authorized reserve to help cover Committee expenses.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources, such as the Committee's Budget and Finance Subcommittee, Education and Promotion Subcommittee, and the Research Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various activities to the Florida tomato industry. Based on estimated shipments, the recommended assessment rate of $0.025 should provide $825,000 in assessment income. The Committee determined assessment revenue, along with interest income and funds from authorized reserves would be adequate to cover budgeted expenses for the 2017–18 fiscal period.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the average producer price for the 2017–18 season could be about $6.50 per 25-pound container or equivalent of Florida tomatoes. Therefore, the estimated assessment revenue for the 2017–18 crop year as a percentage of total producer revenue would be around 0.4 percent.

This proposed action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 22, 2017, meeting was a public meeting, and all entities, both large and small,

were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposal does not impose any additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this proposed rule, as hereinafter set forth, would tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is proposed to be amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

[Subpart Redesignated as Subpart A]

■ 2. Redesignate ''Subpart—Order Regulating Handling'' as ''Subpart A—Order Regulating Handling''.

[Subpart Redesignated as Subpart B and Amended]

■ 3. Redesignate ''Subpart—Rules and Regulations'' as subpart B and revise the heading to read as follows:

Subpart B—Administrative Requirements

[Subpart Redesignated as Subpart C]

■ 4. Redesignate ''Subpart—Assessment Rates'' as ''Subpart C—Assessment Rates''.

[Subpart Redesignated as Subpart D and Amended]

■ 5. Redesignate ''Subpart—Handling Regulations'' as subpart D and revise the heading to read as follows:

Subpart D—Handling Requirements

■ 6. Section 966.234 is revised to read as follows:

§ 966.234 Assessment rate.

On and after August 1, 2017, an assessment rate of $0.025 per 25-pound container is established for Florida tomatoes.

Dated: December 4, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–26373 Filed 12–8–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1006

[AMS–DA–17–0068; AO–18–0008]

Milk in the Florida Marketing Area; Supplemental Notification of Hearing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; supplemental notification of public hearing.

SUMMARY: A public hearing is being held, on an emergency basis, to consider a proposal submitted by Southeast Milk, Inc., Dairy Farmers of America, Inc., Premier Milk, Inc., Maryland and Virginia Milk Producers Cooperative Association, Inc., and Lone Star Milk Producers, L.C. This supplemental notice extends the hearing from December 12, 2017, through December 14, 2017, in order to provide adequate public notification.

DATES: The hearing will convene at 9:00 a.m. on December 12, 2017, December 13, 2017 and December 14, 2017.

ADDRESSES: The hearing will be held at the Embassy Suites by Hilton Tampa Downtown Convention Center, 513 South Florida Avenue, Tampa, Florida 33602; telephone (813) 769–8326.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, Acting Director, Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, Stop 0231—Room 2963, 1400 Independence Avenue SW., Washington, DC 20250–0231; (202) 720–7311; email address: *erin.taylor@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: On December 7, 2017, a Notice of Hearing was placed on public inspection at the **Federal Register** (Document Number 2017–26632) announcing a hearing to begin on December 12, 2017. That notice is scheduled to be published December 11, 2017. The Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Marketing Orders require that the time of a hearing cannot be less than 3 days after the date of publication of the notice in the **Federal Register** (7 CFR 900.4).

Therefore, notice is hereby given that the public hearing to be held at the Embassy Suites by Hilton Tampa Downtown Convention Center, 513 South Florida Avenue, Tampa, Florida 33602, will be held December 12, 2017, through December 14, 2017. The hearing will begin at 9:00 a.m. on each hearing day. If no interested persons appear to present testimony or evidence by noon on December 13, 2017 or December 14, 2017, the hearing will conclude at noon on that day.

List of Subjects in 7 CFR Part 1006

Milk marketing orders.

Authority: 7 U.S.C. 601–674, and 7253.

Dated: December 7, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–26717 Filed 12–8–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1006

[AMS–DA–17–0068; AO–18–0008]

Milk in the Florida Marketing Area; Notification of Hearing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule: notification of public hearing.

SUMMARY: A public hearing is being held, on an emergency basis, to consider a proposal submitted by Southeast Milk, Inc., Dairy Farmers of America, Inc., Premier Milk, Inc., Maryland and Virginia Milk Producers Cooperative Association, Inc., and Lone Star Milk Producers, L.C. The proposal seeks a temporary supplemental charge on Class I milk to provide emergency reimbursement to handlers and producers for costs incurred as a result of market disruptions stemming from Hurricane Irma in September 2017 which caused extensive damage in the United States.

DATES: The hearing will convene at 9:00 a.m. on December 12, 2017.

ADDRESSES: The hearing will be held at the Embassy Suites by Hilton Tampa Downtown Convention Center, 513 South Florida Avenue, Tampa, Florida 33602; telephone (813) 769–8326.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, Acting Director, Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, Stop 0231-Room 2963, 1400 Independence Avenue SW., Washington, DC 20250–0231; (202) 720–7311; email address: *erin.taylor@ams.usda.gov.*

Persons requiring a sign language interpreter or other special accommodations should contact Sherry Swanson, AMS Dairy Program, at (470) 767–5084, email: *sswanson@fmmatlanta.com,* at least 3 days before the hearing begins.

SUPPLEMENTARY INFORMATION: This proposed rule is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is not subject to the requirements of Executive Order 12866.

This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is exempt from the definition of ''regulation'' or ''rule'' in Executive Order 12866 and, thus, is not a regulatory action.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (Act), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Notice is hereby given of a public hearing to be held at the Embassy Suites by Hilton Tampa Downtown Convention Center, 513 South Florida Avenue, Tampa, Florida 33602, beginning at 9:00 a.m. on December 12, 2017, with respect to proposed amendments to the tentative marketing agreements and order regulating the handling of milk in the Florida milk marketing area.

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the order.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA). The RFA seeks to ensure that, within the statutory authority of a program, the regulatory and information collection requirements are tailored to the size and nature of small businesses. For the purpose of the RFA, a dairy farm is a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees (13 CFR 121.201). Most parties subject to a milk order are considered small businesses. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may offer modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 8c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the United States Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction to review USDA's decision on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

The public hearing is being conducted to collect evidence for the record concerning the potential need for emergency payments to reimburse handlers and producers for costs they incurred as a result of disruptions stemming from Hurricane Irma. The payments as proposed would be through a temporary $0.09 per hundredweight increase in the Class I price under the order. The increase would only be applicable for the number of months necessary to cover the documented costs.

Evidence also will be taken at the hearing to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to any proposed amendments.

Interested parties who wish to introduce exhibits should provide the Administrative Law Judge at the hearing with four (4) copies of such exhibits for the official record. Additional copies should be made available for the use of other hearing participants. Any party that has submitted a proposal noticed herein, when participating as a witness, is required to make their testimony—if prepared as an exhibit—and any other exhibits, available to USDA officials prior to the start of the hearing on the day of their appearance. Individual dairy farmers are not subject to this requirement.

Copies of this notification of hearing may be obtained online at, *http://www.ams.usda.gov/dairy,* or from the Hearing Clerk, United States Department of Agriculture, STOP 9200—Room 1031, 1400 Independence Avenue SW., Washington, DC 20250–9200.

Copies of the transcript of testimony and exhibits taken at the hearing will be made available for viewing at *http://www.ams.usda.gov/dairy* after the hearing adjourns. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the

General Counsel; and the AMS Dairy Program (Washington, DC office), and the offices of all Market Administrators. Procedural matters are not subject to the above prohibition and may be discussed at any time.

Testimony is invited on the following proposal or appropriate modifications to such proposal. The proposed amendment, as set forth below, has not received the approval of the Department.

Proposal Number 1

Proposed by Southeast Milk, Inc., Dairy Farmers of America, Inc., Premier Milk, Inc., Maryland and Virginia Milk Producers Cooperative Association, Inc., and Lone Star Milk Producers, L.C.

The proposal details substantial and extraordinary losses to the Florida dairy industry as a result of physical damages; heat stress to animals; market losses; and additional transportation costs stemming from Hurricane Irma. The proposal would provide for emergency relief for Florida handlers and producers for costs incurred September 6 through September 15, 2017. The categories of recovery costs requested include: (1) The minimum class price value of whole and skim milk dumped due to market unavailability during plant shutdowns; (2) additional transportation costs associated with milk movements resulting from the hurricane; (3) lost minimum location price value on milk movements out of market; and (4) price losses on distress sales of milk. Proposed amendments to the Florida Federal Milk Marketing Order are set out in the regulatory text below.

Proposal Number 2

Proposed by Dairy Program, Agricultural Marketing Service.

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

List of Subjects in 7 CFR Part 1006

Milk marketing orders.

For the reasons discussed in the preamble, AMS proposes to amend 7 CFR part 1006 as follow:

PART 1006—MILK IN THE FLORIDA MILK MARKETING AREA

■ 1. The authority citation for 7 CFR part 1006 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

■ 2. Section 1006.60 is amended by revising paragraphs (a) and (g) and adding paragraphs (h) and (i) to read as follows:

§ 1006.60 Handler's value of milk.

* * * * *

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts; except that for the months of __2018 through __2018, the Class I skim milk price for this purpose shall be the Class I skim milk price as determined in § 1000.50(b) plus $0.09 per hundredweight, and the Class I butterfat price for this purpose shall be the Class I butterfat price as determined in § 1000.50(c) plus $0. _____per pound. The adjustments to the Class I skim milk and butterfat prices provided herein may be reduced by the market administrator for any month if the market administrator determines that the payments yet unpaid computed pursuant to paragraphs (g)(1) through paragraph (g)(6) of this section will be less than the amount computed pursuant to paragraph (g)(6) of this section. The adjustments to the Class I skim milk and butterfat prices provided herein during the months of _____shall be announced along with the prices announced in § 1000.53(b).

* * * * *

(g) For transactions occurring during the period of September 6, 2017 through September 15, 2017, for handlers who have submitted proof satisfactory to the market administrator to determine eligibility for reimbursement of hurricane-imposed costs, subtract an amount equal to:

(1) The cost of transportation on loads of producer milk rerouted from pool distributing plants to plants outside the state of Florida which were rerouted as a result of Hurricane Irma. The reimbursement of transportation costs pursuant to this section shall be the actual demonstrated cost of such transportation of bulk milk or the miles of transportation on such loads of bulk milk multiplied by $3.75 per loaded mile, whichever is less.

(2) The lost location value on loads of producer milk rerouted to plants outside the state of Florida as a result of Hurricane Irma. The lost location value shall be the difference per hundredweight between the value stated in part 1000.52 at the plant to which the milk would have gone and the value in part 1000.52 at the plant to which the milk was rerouted;

(3) The value per hundredweight at the lowest classified price for the month of September 2017 for milk dumped at the farm and classified as other use milk pursuant to section 1000.40(e) as a result of Hurricane Irma;

(4) The value per hundredweight at the lowest classified price for the month of September 2017 for milk dumped from milk tankers after being moved off-farm and classified as other use milk pursuant to section 1000.40(e) as a result of Hurricane Irma;

(5) The value per hundredweight at the lowest classified price for the month of September 2017 for skim milk dumped and classified as other use milk pursuant to Section 1000.40(e) as a result of Hurricane Irma; and

(6) The difference between the lowest class price for the month of September 2017 and the actual price received for distress milk moved to nonpool plants as a result of Hurricane Irma;

(h) The total amount of payment to all handlers under this section shall be limited for each month to an amount determined by multiplying the total Class I producer milk for all handlers pursuant to § 1000.44(c) times $0.09 per hundredweight;

(i) If the cost of payments computed pursuant to paragraphs (g)(1) through (6) of this section exceeds the amount computed pursuant to paragraph (h) of this section, the market administrator shall prorate such payments to each handler based on each handler's proportion of transportation and other use milk costs submitted pursuant to paragraphs (g)(1) through (6). Costs submitted pursuant to paragraphs (g)(1) through (6) which are not paid as a result of such a proration shall be paid in subsequent months until all costs incurred and documented through (g)(1) through (6) have been paid.

Dated: December 6, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–26632 Filed 12–6–17; 4:15 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0688; Product Identifier 2017–NE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Zodiac Seats France, Cabin Attendant Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain

Zodiac Seats France, 537 series cabin attendant seats. This proposed AD was prompted by operator reports that safety belt wear was found at the attachment to the cabin attendant seat. This proposed AD would require inspecting the safety belt webbing, and modifying and re-marking each affected cabin attendant seat. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this NPRM by January 25, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this NPRM, contact Zodiac Seats France, Rue Robert Marechal Senior B.P. 69, 36100 Issoudun, France; phone: +33 (0) 9 70 83 08 30; fax: +33 (0) 2 54 03 39 00; email: *zs.tac@zodiacaerospace.com;* Internet: *http://www.services.zodiacaerospace.com.* You may view this service information at the FAA, Engine & Propeller Standards Branch, Policy and Innovation Division, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0688; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dorie Resnik, Aerospace Engineer, FAA, Boston ACO Branch, Compliance and Airworthiness Division, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7693; fax: 781–238–7199; email: *dorie.resnik@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0688; Product Identifier 2017–NE–23–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2016–0163, dated August 10, 2016 (referred to hereafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Cases were reported by operators of finding safety belt worn out at the attachment to the cabin attendant seat. This kind of belt damage is due to chafing between the belt and the surrounding metal lap belt fitting of the cabin attendant seat. This condition, if not detected and corrected, could lead to failure of the attendant seat to perform its intended function, possibly resulting in injury to the seat occupant. Prompted by these occurrences, Zodiac Seats France issued Service Bulletin (SB) No. 537–25–003, providing instructions to modify the affected seats. For the reason described above, this AD requires a modification of the seat pan shaft by installing new seat pan spacers, and subsequent re-identification with a new P/N.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0688.

Related Service Information Under 1 CFR Part 51

We reviewed Zodiac Seats France Service Bulletin (SB) No. 537–25–003, Revision 1, dated August 29, 2016. The SB describes procedures for installing an anti-rotation device on the seat pan shaft to limit the rotation of the safety belt on ATR 42 and ATR 72 airplanes. We also reviewed Service Information Letter (SIL) 537–01, dated July 31, 2015. The SIL provides details to identify if the safety belt must be removed and replaced and provides instructions on safety belt storage to avoid this premature wear. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by EASA, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require inspecting, modifying, and re-marking certain cabin attendant seats.

Costs of Compliance

We estimate that this proposed AD affects 55 seat assemblies installed on, but not limited to, ATR 42 and ATR 72 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Seat inspection and modification	0.5 work-hours × $85 per hour = $42.50	$300	$342.50	$18,837.50

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines and propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Zodiac Seats France (formerly SICMA Aero Seat): Docket No. FAA–2017–0688; Product Identifier 2017–NE–23–AD.

(a) Comments Due Date

We must receive comments by January 25, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Zodiac Seats France cabin attendant seats, 537 series, part numbers 53701–( )( )–( )( )( ).

These appliances are installed on, but not limited to, ATR 42 and ATR 72 airplanes of U.S. registry.

(d) Subject

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

(e) Reason

This AD was prompted by operator reports that safety belt wear was found at the attachment to the cabin attendant seat. We are issuing this AD to prevent failure of these attendant seats.

(f) Compliance

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

Within 720 flight cycles after the effective date of this AD, inspect safety belt webbing, modify and re-mark each affected cabin attendant seat using sections (2)(A) through (2)(B) of Zodiac Seats France Service Bulletin (SB) No. 537–25–003, Revision 1, dated August 29, 2016 and Zodiac Seats France Service Information Letter 537–01, dated July 31, 2015.

(g) Installation Prohibition

After the effective date of this AD, do not install any affected cabin attendant seat on any aircraft.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, FAA, Boston ACO Branch, Compliance and Airworthiness Division, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Boston ACO Branch, send it to the attention of the person identified in paragraph (i)(1) of this AD. You may email your request to: *9-ane-boston-aco-amoc-requests@faa.gov.*

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

(i) Related Information

(1) For more information about this AD, contact Dorie Resnik, Aerospace Engineer, FAA, Boston ACO Branch, Compliance and Airworthiness Division, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7693; fax: 781–238–7199; email: *dorie.resnik@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2016–0163, dated August 10, 2016, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2017–0688.

(3) Zodiac Seats France SB No. 537–25–003, Revision 1, dated August 29, 2016, and Zodiac Seats France Service Information Letter 537–01, dated July 31, 2015 can be obtained from Zodiac Seats France, using the contact information in paragraph (i)(4) of this proposed AD.

(4) For service information identified in this proposed AD, contact Zodiac Seats France, Rue Robert Marechal Senior B.P. 69, 36100 Issoudun, France; phone: +33 (0) 9 70 83 08 30; fax: +33 (0) 2 54 03 39 00; email: *zs.tac@zodiacaerospace.com;* Internet: *http://www.services.zodiacaerospace.com.*

(5) You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, Policy and Innovation Division, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on December 5, 2017.

Robert J. Ganley,

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

[FR Doc. 2017–26571 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1120; Product Identifier 2017–CE–030–AD]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Textron Aviation Inc. Models 510, 680, and 680A airplanes equipped with certain part number brake assemblies. This proposed AD was prompted by a report that brake pad wear indicator pins were set incorrectly, which could lead to brake pad wear beyond the acceptable limits without indication. This proposed AD would require inspection of the brake pad wear indicator pins and replacement of the brake assembly if any pin is set incorrectly. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 25, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Textron Aviation Inc., One Cessna Boulevard, P.O. Box 7704, Wichita, Kansas 67277; phone: 316–517–6215; email: *citationpubs@txtav.com;* Internet: *https://support.cessna.com/custsupt/csupport/newlogin.jsp;* or UTC Aerospace Systems, Goodrich Corporation, 101 Waco Street, P.O. Box 340, Troy, Ohio 45373; phone: 937–339–3811; email: *awb.techpubs@utas.utc.com;* Internet: *https://www.customers.utcaerospacesystems.com/.* You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1120; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For Further Information Contact One of the Following:

- *For the Model 510:* David Enns, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4147; fax: 913–946–4107; email: *david.enns@faa.gov;* or
- *For the Models 680 and 680A:* Adam Hein, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4116; fax: 316–946–4107; email: *adam.hein@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1120; Product Identifier 2017–CE–030–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We received information from UTC Aerospace Systems (UTC) that brake pad wear indicator pins were set incorrectly on certain Textron Aviation Inc. (Textron) Models 510, 680, and 680A airplanes equipped with brake assemblies, part numbers (P/Ns) 2–1706–1 and 2–1675–1, with certain serial numbers. Brakes overhauled by UTC may have wear indicator pins set longer than specified. UTC discovered this condition during their inspection of incoming brakes. This condition, if not corrected, could result in brake pad wear beyond the acceptable limits without indication and consequent loss of braking ability, which could lead to a runway excursion.

Related Service Information Under 1 CFR Part 51

We reviewed UTC Service Bulletin 2–1706–1–32–1, Revision 1, dated July 18, 2017; and UTC Service Bulletin 2–1675–32–2, Revision 1, dated July 18, 2017. For the applicable models, the service information identifies the affected serial number brake assemblies and describes procedures for inspecting the wear indicator pins. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section. These UTC service bulletins are included as attachments with the Textron service letters discussed in the Other Related Service Information paragraph.

Other Related Service Information

We also reviewed Textron Aviation Inc. Service Letters SL510–32–08, SL680–32–15, and SL680A–32–05, all dated July 21, 2017. For the applicable airplane models, these service letters direct the operators to use Goodrich Service Bulletins 2–1706–1–32–1 and 2–1675–32–2. However, the Goodrich Service Bulletins that the Textron Aviation Inc. Service Letters refer to and intend for operators to use are titled UTC Aerospace Systems Service Bulletin 2–1706–1–32–1, Revision 1, dated July 18, 2017; and UTC Aerospace Systems Service Bulletin 2–1675–32–2, Revision 1, dated July 18, 2017. The UTC service bulletins are included as attachments to the Textron service letters.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 668 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the brake assembly wear indicator pins for Models 680 and 680A.	1 work-hour × $85 per hour = $85 ..	Not applicable	$85	$31,790
Inspection of the brake assembly wear indicator pins for Model 510.	.5 work-hour × $85 per hour = $42.50.	Not applicable	42.50	12,495

We estimate the following costs to do any necessary replacement that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the brake assembly for Models 680 and 680A	8 work-hours × $85 per hour = $680	$106,164	$106,844
Replacement of the brake assembly for Model 510	3 work-hours × $85 per hour = $255	10,828	11,083

According to the manufacturer, the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Textron Aviation Inc.: Docket No. FAA–2017–1120; Product Identifier 2017–CE–30–AD.

(a) Comments Due Date

We must receive comments by January 25, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to Textron Aviation Inc. (Textron) (type certificates previously held by Cessna Aircraft Company) Models 510, 680, and 680A airplanes equipped with a brake assembly specified in paragraphs (c)(1)(i) and (ii) of this AD, certificated in any category:

(i) *For Model 510 airplanes:* Brake assembly part number (P/N) 2–1706–1 that has a serial number listed in table 1 of UTC Aerospace Systems (UTC) Service Bulletin 2–1706–1–32–1, Revision 1, July 18, 2017; and

(ii) *Models 680 and 680A airplanes:* Brake assembly P/N 2–1675–1 that has a serial number listed in table 1 of UTC Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017.

(2) The UTC service bulletins are included as attachments to Textron Service Letters SL510–32–08, SL680–32–15, and SL680A–32–05, all dated July 21, 2017. However, you may also obtain the UTC service bulletins directly from UTC using the contact

information found in paragraph (k)(2) of this AD.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by information received from UTC that brake pad wear indicator pins were set incorrectly. We are issuing this AD to detect and correct wear indicator pins that were set at an incorrect length. The unsafe condition, if not corrected, could result in brake pad wear beyond the acceptable limits without indication and consequent loss of braking ability, which could lead to a runway excursion.

(f) Compliance

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

(g) Inspection

(1) *For Model 510 airplanes:* Within 75 landings after the effective date of this AD or within 90 days after the effective date of this AD, whichever occurs first, inspect the brake pad wear indicator pins, P/N 2–1706–1, for correct length following UTC Service Bulletin 2–1706–1–32–1, Revision 1, July 18, 2017.

(2) *For Models 680 and 680A airplanes:* Within 200 landings after the effective date of this AD or within 90 days after the effective date of this AD, whichever occurs first, inspect the brake pad wear indicator pins, P/N 2–1675–1, for correct length following UTC Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017.

(3) The compliance times in this AD are presented in landings. If you do not keep a record of the total number of landings, then multiply the total number of hours time-in-service (TIS) after the effective date by 0.85 for Model 510 airplanes and multiply the total number of hours TIS after the effective date by 0.73 for Models 680 and 680A airplanes to estimate the number of landings.

(h) Replacement

If any brake pad wear indicator pin is found to have an incorrect length during the inspection required in paragraph (g) of this AD, before further flight, contact Textron for FAA-approved replacement instructions approved specifically for this AD. You may use the contact information listed in paragraph (k)(2) of this AD, as applicable.

(i) Special Flight Permit

We allow a special flight permit per 14 CFR 39.23 for the replacement of the brake assembly required in paragraph (h) of this AD provided the wear indicator pin length extends a minimum of 0.200 inches beyond the brake assembly housing with the brakes engaged.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD.

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

(k) Related Information

(1) For more information about this AD, contact one of the following:

(i) *For the Model 510:* David Enns, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4147; fax: 913–946–4107; email: *david.enns@faa.gov;* or

(ii) *For the Models 680 and 680A:* Adam Hein, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4116; fax: 316–946–4107; email: *adam.hein@faa.gov.*

(2) For service information identified in this AD, contact Textron Aviation Inc., One Cessna Boulevard, P.O. Box 7704, Wichita, Kansas 67277; phone: 316–517–6215; email: *citationpubs@txtav.com;* Internet: *https://support.cessna.com/custsupt/csupport/newlogin.jsp;* or UTC Aerospace Systems, Goodrich Corporation, 101 Waco Street, P.O. Box 340, Troy, Ohio 45373; phone: 937–339–3811; email: *awb.techpubs@utas.utc.com;* Internet: *https://www.customers.utcaerospacesystems.com/.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on November 21, 2017.

Melvin J. Johnson,

Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2017–26038 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0970; Airspace Docket No. 16–AAL–6]

Proposed Establishment of Class E Airspace; Manley Hot Springs, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Manley Hot Springs Airport, Manley Hot Springs, AK to accommodate the development of area navigation (RNAV) instrument flight rules (IFR) operations under standard instrument approach and departure procedures at the airport, and for the safety and management of IFR operations within the National Airspace System.

DATES: Comments must be received on or before January 25, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2017–0970; Airspace Docket No. 16–AAL–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B 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: Robert LaPlante, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4566.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is

promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Manley Hot Springs Airport, Manley Hot Springs, AK, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0970, Airspace Docket No. 16–AAL–6.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

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 proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Manley Hot Springs Airport, Manley Hot Springs, AK. This airspace is necessary to accommodate the development of RNAV (IFR) operations in standard instrument approach and departure procedures at the airport. Class E airspace would be established within a 6.3-mile radius of Manley Hot Springs Airport.

Class E airspace designations are published in paragraph 6005 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 designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

AAL AK E5 Manley Hot Springs, AK [New]

Manley Hot Springs Airport, AK
(Lat. 64°59′16″N., long. 150°38′51″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Manley Hot Springs Airport.

Issued in Seattle, Washington, on November 30, 2017.

Brian J. Johnson,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–26502 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1064; Airspace Docket No. 17–ANM–32]

Proposed Establishment of Class E Airspace; Yuma, CO

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Yuma Municipal Airport, Yuma, CO, to accommodate the development of area navigation (RNAV) instrument flight rules (IFR) operations under standard instrument approach and departure procedures at the airport, and for the safety and management of IFR operations within the National Airspace System.

DATES: Comments must be received on or before January 25, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2017–1064; Airspace Docket No. 17–ANM–32, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B 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: Robert LaPlante, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4566.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Yuma Municipal Airport, Yuma, CO, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–1064/Airspace Docket No. 17–ANM–32.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

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 proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Yuma Municipal Airport, Yuma, CO. This airspace is necessary to accommodate the development of RNAV (IFR) operations in standard instrument approach and departure procedures at the airport. Class E airspace would be established within a 6.4-mile radius of Yuma Municipal Airport.

Class E airspace designations are published in paragraph 6005 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 designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally

current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANM CO E5 Yuma, CO [New]

Yuma Municipal Airport, CO
(Lat. 40°06′21″ N., long. 102°42′52″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Yuma Municipal Airport.

Issued in Seattle, Washington, on November 30, 2017.

Brian J. Johnson,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–26501 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1047]

RIN 1625–AA09

Drawbridge Operation Regulation; Black River, Port Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Military Street Bridge, mile 0.33, the Seventh Street Bridge, mile 0.50, the Tenth Street Bridge, mile 0.94, and the Canadian National Railroad Bridge, mile 1.56, across the Black River at Port Huron, MI. The City of Port Huron requested the winter hours to be expanded for City-operated highway bridges. We have reviewed the regulation in its entirety because the current regulation is approximately 30 years old, use of the waterway has substantially changed, and the current language and conditions in the regulation are difficult to follow and understand.

DATES: Comments and related material must reach the Coast Guard on or before January 10, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–1047 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IGLD85 International Great Lakes Datum of 1985
LWD Low Water Datum based on IGLD 85
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The Black River flows southwest through the City of Port Huron, MI and empties into the St. Clair River just below the south end of Lake Huron. Large commercial freighters once traveled up the Black River to facilities past the Canadian National Railroad Bridge, but currently the river is mostly used by recreational vessels with a few small commercial vessels operating in the river. Large commercial vessels do not currently trade in the Black River.

The Military Street Bridge provides a horizontal clearance of 73 feet and a vertical clearance of 13 feet above LWD in the closed position.

The Seventh Street Bridge provides a horizontal clearance of 83 feet and a vertical clearance of 12 feet above LWD in the closed position.

The Tenth Street Bridge provides a horizontal clearance of 90 feet and a vertical clearance of 18 feet above LWD in the closed position.

The Canadian National Railroad Bridge provides a horizontal clearance of 80 feet and a vertical clearance of 14 feet above LWD in the closed position.

The CSX Railroad Bridge, mile 0.09, is out of service and locked in the fully open position.

All five drawbridges provide an unlimited vertical clearance in the open position.

The CSX Railroad Bridge and Canadian National Railroad Bridge are not included in the existing regulation.

The current regulation allows the Military Street Bridge and the Seventh Street Bridge to operate on the hour and half-hour between May 1 and October 31, from 9 a.m. to 5:30 p.m., Monday through Saturday, except Federal Holidays. In April and November, between the hours of 4 p.m. and 8 a.m., both bridges require a 3-hour advance notice for openings.

The Tenth Street Bridge is currently required to open on signal from May 1 through October 31, except from 11 p.m. to 8 a.m. a 1-hour advance notice is required for openings. In April and November the bridge requires a 3-hour advance notice for openings at all times.

From December 1 through March 31 all three highway bridges requires at least 24 hours notice for openings.

As noted above, both the CSX Railroad and Canadian National Railroad bridges are not included in the existing regulation.

The City of Port Huron operates the three highway bridges and requested the winter operating dates to be expanded due to a lack of openings, use of the waterway has substantially changed, and early development of ice in the river that prevents most recreational vessels from transiting the waterway between November 1 and April 30. They requested the winter operating schedules (with 12-hours advance notice from vessels) to apply November 1 through April 30 each year.

In addition to reviewing winter operating dates we have reviewed the current operating schedules for all drawbridges on the waterway. During our coordination with the City of Port Huron and stakeholders, concerns were also received regarding vehicle congestion and predictable bridge openings when the Military Street and Seventh Street Bridges are opened simultaneously for vessels. Both bridges currently open on the hour and half-hour. This proposed rule is expected to reflect the current usage of the waterway by marine entities during the navigation season and winter periods, improve both marine and vehicular traffic mobility by reducing congestion and delays, simplify the schedules and language in the existing regulation, and provide for the reasonable needs of navigation.

III. Discussion of Proposed Rule

This proposed rule alternates, or staggers, openings of the three highway bridges with Military Street and Tenth Street opening on the hour and half-hour, and Seventh Street (the middle highway bridge), on the quarter and three-quarter-hour, thereby providing predictable bridge openings and avoiding all of the highway bridges opening simultaneously, and allowing continuous vessel movements through the highway bridges. To prevent congestion at the bridges the drawbridges will open at any time five or more vessels are waiting for an opening. This change is expected to reduce vehicular traffic congestion and delays, and reduce the chance vessels will be stuck between the highway bridges and waiting for extended times for bridge openings.

The Tenth Street Bridge is the furthest upriver highway bridge and provides a higher vertical clearance than the Military Street or the Seventh Street drawbridges, allowing most vessels to pass under the bridge without an opening. The volume of marine traffic and upriver marine facilities that require Tenth Street Bridge openings is significantly lower than Military and Seventh Street Bridges but the vehicular traffic is considerably higher than the other highway bridges. Between May 1 and October 31 this proposed rule will allow the Tenth Street Bridge to open on the hour and half-hour from 8 a.m. to 11 p.m. From 11 p.m. to 8 a.m. the bridge will require a 1-hour advance notice for openings. This schedule is expected to provide predictable bridge openings for vehicles to cross the river at any time while still providing for the reasonable needs of navigation. Between November 1 and April 30 the bridge will require a 12-hours advance notice to open.

The Canadian National Railroad Bridge normally remains in the open to navigation position and only closes to navigation to accommodate the passage of trains. This proposed rule will add the Canadian National Bridge to the current regulation. The bridge will open on signal at all times between May 1 and October 31, and will open if 12-hours advance notice is provided between November 1 and April 30, matching the winter schedules of the highway bridges.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771. This regulatory action determination is based on the ability that vessels can still transit the drawbridges by giving advanced notice at all times of the year.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridges may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator because we coordinated with the marina operators and the local yacht clubs and incorporated their concerns into the proposed regulation.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and

Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.625 to read as follows:

§ 117.625 Black River (Port Huron).

(a) The draw of the Military Street Bridge, mile 0.33, shall open on signal; except that, from May 1 through October 31, from 8 a.m. to 11 p.m., seven days a week, the draw need open only on the hour and half-hour for recreational vessels, or at any time when there are more than five vessels waiting for an opening, and from November 1 through April 30 if at least 12-hours advance notice is given.

(b) The draw of the Seventh Street Bridge, mile 0.50, shall open on signal; except that, from May 1 through October 31, from 8 a.m. to 11 p.m., seven days a week, the draw need open only on the quarter-hour and three-quarter-hour for recreational vessels, or at any time when there are more than five vessels waiting for an opening, and from November 1 through April 30 if at least 12-hours advance notice is given.

(c) The draw of the Tenth Street Bridge, mile 0.94, shall open on signal; except that, from May 1 through October 31, from 8 a.m. to 11 p.m., seven days a week, the draw need open only on the hour and half-hour for recreational vessels, or at any time when there are more than five vessels waiting for an opening, and from 11 p.m. to 8 a.m. if at least 1-hour advance notice is provided, and from November 1 through April 30 if at least 12-hours notice is given.

(d) The draw of the Canadian National Railroad Bridge, mile 1.56, shall open on signal; except from November 1 through April 30 if at least 12-hours advance notice is given.

Dated: November 27, 2017.

J.M. Nunan,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2017–26605 Filed 12–8–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0929]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the navigable waters of the Lower Mississippi River between mile marker (MM) 94 and MM 95, above Head of Passes. This action is necessary to provide for the safety of life on these navigable waters near New Orleans, LA, during a fireworks display on April 21, 2018. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative. We invite

your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before February 9, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0930 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander (LCDR) Howard Vacco, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On September 14, 2017, New Orleans Convention Company, Inc. notified the Coast Guard that it will be conducting a fireworks display from 7:30 p.m. to 8:30 p.m. on April 21, 2018. The fireworks are to be launched from a barge on the Lower Mississippi River at approximate mile marker (MM) 94.5, above Head of Passes, off Algiers Point, New Orleans, LA. Hazards from firework displays include discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector New Orleans (COTP) has determined that potential hazards associated with the fireworks would be a safety concern for anyone within a one-mile length of the river.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a one-mile range of the fireworks barge before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 7:30 p.m. through 8:30 p.m. on April 21, 2018. The safety zone would cover all navigable waters of the Lower Mississippi River between MM 94 and MM 95, above Head of Passes. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and short duration of the waterway closure, which will remain in effect for one hour on a one-mile section of the waterway. In addition, vessel traffic seeking to transit the area may seek permission from the COTP or his designated representative to do so.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting one hour that would prohibit entry within a one mile section of the Lower Mississippi River. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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.T08–0929 to read as follows:

§ 165.T08–0929 Safety Zone; Mississippi River, New Orleans, LA

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River between mile marker (MM) 94 and MM 95 above Head of Passes, New Orleans, LA.

(b) *Effective period.* This rule is effective from 7:30 p.m. through 8:30 p.m. on April 21, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: December 4, 2017.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2017–26559 Filed 12–8–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–1057]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters on the Lower Mississippi River from mile marker (MM) 95.7 to MM 96.7, Above Head of Passes. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector New Orleans (COTP). We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before January 10, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–1057 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public

Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander (LCDR) Howard Vacco, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On November 7, 2017, the Association of General Contractors of America notified the Coast Guard that it would be conducting a fireworks display from 7:30 p.m. through 8:30 p.m. on February 27, 2018. The fireworks will to be launched from a barge on the Lower Mississippi River at approximate mile marker (MM) 96.2, Above Head of Passes, New Orleans, LA. Hazards from firework displays include discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector New Orleans (COTP) has determined that potential hazards associated with the fireworks would be a safety concern for anyone within a one-mile length of the river.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a one-mile range of the fireworks barge before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 7:30 p.m. through 8:30 p.m. on February 27, 2018. The safety zone would cover all navigable waters of the Lower Mississippi River between MM 95.7 and MM 96.7, Above Head of Passes. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and short duration of the waterway closure, which will remain in effect for one hour on a one-mile section of the waterway. In addition, vessel traffic seeking to transit the area may seek permission from the COTP or his designated representative to do so.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or

more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting one hour that would prohibit entry within a one-mile section of the Lower Mississippi River. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard 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.T08–1057 to read as follows:

§ 165.T08–1057 Safety Zone; Mississippi River, New Orleans, LA

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River between mile markers 95.7 and 96.7 Above Head of Passes.

(b) *Effective period.* This section is effective from 7:30 p.m. through 8:30 p.m. on February 27, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: December 4, 2017.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2017–26562 Filed 12–8–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0930]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the navigable waters of the Lower Mississippi River between mile marker (MM) 94 and MM 95, above Head of Passes. This action is necessary to provide for the safety of life on these navigable waters near New Orleans, LA, during a fireworks display on April 22, 2018. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before February 9, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0930 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander (LCDR) Howard Vacco,

Sector New Orleans, U.S. Coast Guard; telephone 504–365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On March 14, 2017, the NOLA 2018 Foundation notified the Coast Guard that it will be conducting a fireworks display from 8 p.m. through 9 p.m. on April 22, 2018. The fireworks are to be launched from a barge on the Lower Mississippi River at approximate mile marker (MM) 94.5, above Head of Passes, off Algiers Point, New Orleans, LA. Hazards from firework displays include discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector New Orleans (COTP) has determined that potential hazards associated with the fireworks would be a safety concern for anyone within a one-mile length of the river.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a one-mile range of the fireworks barge before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 8:00 p.m. through 9:00 p.m. on April 22, 2018. The safety zone would cover all navigable waters of the Lower Mississippi River between MM 94 and MM 95, above Head of Passes. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and short duration of the waterway closure, which will remain in effect for one hour on a one-mile section of the waterway. In addition, vessel traffic seeking to transit the area may seek permission from the COTP or his designated representative to do so.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction

M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting one hour that would prohibit entry within a one-mile section of the Lower Mississippi River. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0930 to read as follows:

§ 165.T08–0930 Safety Zone; Lower Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River between mile marker (MM) 94 and MM 95, above Head of Passes.

(b) *Effective period.* This rule is effective from 8 p.m. through 9 p.m. on April 22, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: December 4, 2017.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2017–26560 Filed 12–8–17; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Part 201

[Docket No. 2005–6]

Statutory Cable, Satellite, and DART License Reporting Practices

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Request for reply comments; notice of *ex-parte* communication.

SUMMARY: On December 1, 2017, the United States Copyright Office published a notice of proposed rulemaking and request for comments concerning the royalty reporting practices of cable operators under section 111 and proposed revisions to the Statement of Account forms, and on proposed amendments to the Statement of Account filing requirements. The Copyright Office has determined that reply comments would also be appropriate for this rulemaking. In addition, the Office has determined that informal *ex-parte* communications with interested parties might be beneficial, such as to discuss nuances of proposed regulatory language.

DATES: Initial written comments in response to the proposed rule published December 1, 2017, at 82 FR 56926, continue to be due no later than 11:59 p.m. Eastern Time on January 16, 2018. Written reply comments must be received no later than 11:59 p.m. Eastern Time on January 30, 2018.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office Web site at *https://copyright.gov/rulemaking/section111.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Sarang V. Damle, General Counsel and

Associate Register of Copyrights, by email at *sdam@loc.gov,* Regan A. Smith, Deputy General Counsel, by email at *resm@loc.gov,* or Anna Chauvet, Assistant General Counsel, by email at *achau@loc.gov,* or any of them by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION: On December 1, 2017, the Office issued a notice of proposed rulemaking (''NPRM'') on proposed rules governing the royalty reporting practices of cable operators under section 111 and proposed revisions to the Statement of Account forms, and on proposed amendments to the Statement of Account filing requirements.[1] The NPRM addresses certain issues outlined by a 2006 notice of inquiry published by the Office,[2] which received comments from multiple parties,[3] as well as additional issues that have subsequently arisen. While the NPRM is primarily focused on reporting practices for the cable license, some of the rules proposed by the NPRM would also apply to remitters making use of the section 119 (satellite) or chapter 10 (''DART'') licenses.[4] The Office welcomed public input on the proposed changes set forth in the NPRM, as well as other suggestions on streamlining or otherwise improving reporting practices for the section 111 license.

A. Reply Comments

The Office has determined that interested parties should be given an opportunity to address the proposed regulation and any comments submitted in response to the NPRM before the Office adopts a final rule. Accordingly, the Office concludes that reply comments would be appropriate. Interested parties must submit written reply comments in accordance with the deadline specified in the **DATES** section above. Reply commenters should limit their remarks to the issues or concerns presented in the initial comments.

B. Ex-Parte Communication

Typically, the Office's communications with participants about ongoing rulemakings do not include discussions about the substance of the proceeding apart from the noticed phases of written comments. The Office has determined that informal communication with interested parties might be beneficial in this rulemaking, such as to discuss nuances of proposed regulatory language. Any such communication may occur before and after public comments are submitted to the Office, but before a final rule has issued. Parties wishing to participate in informal discussions with the Office should submit a written request using the contact information above.

The primary means to communicate views in the course of the rulemaking will, however, continue to be through the submission of written comments. In other words, informal communication will supplement, not substitute for, the written record. Should a party meet with the Office regarding this rulemaking, the participating party will be responsible for submitting a list of attendees and written summary of any oral communication to the Office, which will be made publicly available on the Office's Web site or *regulations.gov.* In sum, while the Office is establishing the option of informal meetings in this rulemaking, it will require that all such communications be on the record to ensure the greatest possible transparency.

Dated: December 6, 2017.

Sarang V. Damle,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2017–26631 Filed 12–8–17; 8:45 am]

BILLING CODE 1410–30–P

[1] 82 FR 56926 (Dec. 1, 2017).

[2] 71 FR 45749 (Aug. 10, 2006).

[3] The initial and reply comments have been posted on the Office's Web site at *https://copyright.gov/rulemaking/section111.*

[4] 82 FR at 56935–36.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2017–0472; FRL–9968–23–OAR]

RIN 2060–AT53

Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector To Incorporate Latest Edition of Certain Industry, Consensus-Based Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to modify the use conditions required for use of three flammable refrigerants, isobutane (R–600a), propane (R–290), and R–441A, in new household refrigerators, freezers, and combination refrigerators and freezers under the Significant New Alternatives Policy (SNAP) program. The use conditions, which address safe use of flammable refrigerants, would reflect the incorporation by reference of an updated standard from Underwriters Laboratories. In the ''Rules and Regulations'' section of this **Federal Register**, we are modifying these use conditions as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received on or before January 25, 2018. Any party requesting a public hearing must notify the contact listed below under **FOR FURTHER INFORMATION CONTACT** by December 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2017–0472, to the *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Chenise Farquharson, Stratospheric Protection Division, Office of Atmospheric Programs (Mail Code 6205T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–7768; email address: *farquharson.chenise@epa.gov.* Notices and rulemakings under EPA's Significant New Alternatives Policy program are available on EPA's Stratospheric Ozone Web site at *https://www.epa.gov/snap/snap-regulations.*

SUPPLEMENTARY INFORMATION:

I. What is EPA proposing?

This action proposes to revise the use conditions for three flammable hydrocarbon refrigerants, isobutane (R–600a), propane (R–290), and R–441A, used in new household refrigerators, freezers, and combination refrigerators

and freezers under EPA's Significant New Alternatives Policy (SNAP) program. This action would replace four of the five use conditions in our previous hydrocarbon refrigerants rules (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015) with the updated Underwriters Laboratories (UL) Standard 60335–2–24 (2nd edition, April 28, 2017), ''Household and Similar Electrical Appliances—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers.'' UL Standard 60335–2–24 supersedes the current edition of UL Standard 250 (10th edition, August 25, 2000), ''Household Refrigerators and Freezers,'' which EPA previously incorporated by reference in the use conditions of the acceptability listings for these three refrigerants (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015). The use conditions would include a charge limit of 150 grams (5.29 ounces) for each separate refrigerant circuit in a refrigerator or freezer, consistent with UL Standard 60335–2–24. The use conditions that would be replaced are reflected in the provisions of UL Standard 60335–2–24 and would be redundant of the standard. Elsewhere in this **Federal Register**, EPA is taking this action as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. This action does not place any significant burden on the regulated community and ensures consistency with industry standards. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

If requested by the date specified in the **DATES** section of this notice, EPA will hold a public hearing to accept oral testimony on this proposal on or before December 26, 2017 in Washington, DC. EPA will post all information regarding any public hearing on this proposed action, including whether a hearing will be held, its location, date, and time, if applicable, and any updates online at *https://www.epa.gov/snap*. In addition, you may contact Ms. Chenise Farquharson at (202) 564–7768 or by email at *farquharson.chenise@epa.gov* with public hearing requests and inquiries. EPA does not intend to publish any future notices in the **Federal Register** regarding a public hearing on this proposed rule and directs all inquiries regarding a hearing to the Web site and contact person identified above.

II. Does this action apply to me?

This notice of proposed rulemaking would regulate the use of three flammable hydrocarbon refrigerants, isobutane (R–600a), propane (R–290), and the hydrocarbon blend R–441A, in new household refrigerators, freezers, and combination refrigerators and freezers. Table 1 identifies industry subsectors that might want to explore the use of these flammable refrigerants in this end-use or that might work with equipment using these refrigerants in the future. Regulated entities may include:

TABLE 1—POTENTIALLY REGULATED ENTITIES BY NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) CODE

Category	NAICS code	Description of regulated entities
Industry	333415	Manufacturers of Refrigerators, Freezers, and Other Refrigerating or Freezing Equipment, Electric or Other (NESOI); Heat Pumps Not Elsewhere Specified or Included; and Parts Thereof.
Industry	335222	Household Refrigerator and Home Freezer Manufacturing.
Industry	811412	Appliance Repair and Maintenance.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR part 82. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection requirements contained in the existing regulations and has assigned OMB control number 2060–0226. This rule contains no new requirements for reporting or recordkeeping.

D. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule.

The use conditions of this rule would apply to manufacturers of new household refrigerators and freezers, that choose to use flammable refrigerants. This action would allow equipment manufacturers to use flammable refrigerants at a higher charge size than previously allowed in

new household refrigerators and freezers but does not mandate such use; the change to the use conditions allows more flexibility for manufacturers in the design of equipment and thus reduces regulatory burden to the regulated community. In some cases, it may reduce costs by allowing manufacturers to design equipment with a single, larger refrigerant circuit instead of multiple, smaller refrigerant circuits for the same piece of equipment.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in risk screens for the various substitutes.[1] [2] [3] The risk screens are available in the docket for this rulemaking.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves a technical standard. EPA is proposing to revise the use conditions for the household refrigerators and freezers end-use by incorporating by reference the UL Standard 60335–2–24, ''Safety Requirements for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers'' (2nd edition, April 2017), which establishes requirements for the evaluation of household and similar electrical appliances, and safe use of flammable refrigerants. UL Standard 60335–2–24 supersedes the current edition of UL Standard 250, Supplement A, ''Requirements for Refrigerators and Freezers Employing a Flammable Refrigerant in the Refrigerating System'' (10th Edition, August 2000. EPA's revision to the use conditions will replace the 2000 UL standard 250 with the 2017 UL standard 60335–2–24. This standard is available at *https://standardscatalog.ul.com/standards/en/standard_60335–2–24_2,* and may be purchased by mail at: COMM 2000, 151 Eastern Avenue, Bensenville, IL 60106; Email: *orders@shopulstandards.com;* Telephone: 1–888–853–3503 in the U.S. or Canada (other countries dial 1–415–352–2178); Internet address: *http://www.shopulstandards.com/ProductDetail.aspx?productId=UL60335-2-24_2_B_20170428(ULStandards2).* The cost of UL 60335–2–24 is $454 for an electronic copy and $567 for hardcopy. UL also offers a subscription service to the Standards Certification Customer Library (SCCL) that allows unlimited access to their standards and related documents. The cost of obtaining this standard is not a significant financial burden for equipment manufacturers and purchase is not required for those selling, installing and servicing the equipment. Therefore, EPA concludes that the UL standard being incorporated by reference is reasonably available.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action's health and environmental risk assessments are contained in the risk screens for the various substitutes. The risk screens are available in the docket for this rulemaking.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Recycling, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: November 20, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–26084 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

[1] ICF, 2017a. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: Propane (R–290).

[2] ICF, 2017b. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: Isobutane (R–600a).

[3] ICF, 2017c. Risk Screen on Substitutes in Household Refrigerators and Freezers; Substitute: R–441A.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2017–0303; FRL–9971–30–OW]

RIN 2040–AF71

Proposed Withdrawal of Certain Federal Water Quality Criteria Applicable to California: Lead, Chlorodibromomethane, and Dichlorobromomethane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the federal regulations to withdraw certain human health (water and organisms) water quality criteria and certain freshwater acute and chronic aquatic life water quality criteria, applicable to certain waters of California because California adopted, and EPA approved, criteria for these parameters that are considered protective of the uses for the waterbodies. The EPA is providing an opportunity for public comment to this proposed withdrawal of certain federally promulgated criteria. The withdrawal will enable California to implement their EPA-approved water quality criteria.

DATES: Comments must be received on or before February 9, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2017–0303, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

EPA is offering a virtual public hearing so that interested parties may also provide oral comments on this proposed rule. The virtual public hearing will be on January 25, 2018 from 9:00 a.m. to 11:00 a.m. Pacific Time. For more details on the public hearing and a link to register, please visit *https://www.epa.gov/wqs-tech/water-quality-standards-regulations-california.*

FOR FURTHER INFORMATION CONTACT: For information with respect to California, contact Diane E. Fleck, P.E. Esq., U.S. EPA Region 9, WTR–2, 75 Hawthorne St., San Francisco, CA 94105 (telephone: (415) 972–3527 or email: *Fleck.Diane@epa.gov*). For general and administrative concerns, contact Bryan ''Ibrahim'' Goodwin, U.S. EPA Headquarters, Office of Science and Technology, 1200 Pennsylvania Avenue NW., Mail Code 4305T, Washington, DC 20460 (telephone: (202) 566–0762 or email: *Goodwin.Bryan@epa.gov*).

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I. General Information

A. Does this action apply to me?

No one is affected by the proposed action contained in this document. This proposed action would merely serve to withdraw certain federal water quality criteria that have been applicable to California that are no longer needed in light of approved state water quality criteria. If you have any questions regarding the applicability of this action to a particular entity, consult the person identified in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What are the applicable federal statutory and regulatory requirements?

On May 18, 2000, EPA promulgated a final rule known as the ''California Toxics Rule'' (''CTR'') at 40 CFR 131.38. This final rule established numeric water quality criteria for priority toxic pollutants for the State of California, because the State had not complied fully with Section 303(c)(2)(B) of the Clean Water Act (CWA) (65 FR 31682).

Consistent with the basic tenet of the CWA, EPA developed the water quality standards program emphasizing State primacy. Although in the CTR EPA promulgated toxic criteria for California, EPA prefers that states maintain primacy, revise their own standards, and achieve full compliance (see 57 FR 60860, December 22, 1992). As described in the preamble to the final CTR (see 65 FR 31681 (May 18, 2000)), when California adopts, and EPA approves, water quality criteria that meet the requirements of the CWA, EPA will issue a rule amending the CTR to withdraw the federal criteria applicable to California.

Consistent with the procedure described in the preamble to the final CTR, EPA is proposing to amend the federal regulations to withdraw certain federally promulgated human health (water and organisms) water quality criteria and certain freshwater aquatic life (acute and chronic) water quality criteria, applicable in California. EPA is providing an opportunity for public comment because the criteria adopted by the State and approved by EPA, while as protective for CWA purposes as the federally promulgated criteria, are less stringent than the federally promulgated criteria that EPA is now proposing to withdraw.

B. What are the applicable federal water quality criteria that EPA is proposing to withdraw?

This action proposes to amend the federal regulations to withdraw human health (water & organisms) criteria for chlorodibromomethane and dichlorobromomethane for a segment of New Alamo Creek and a segment of Ulatis Creek, California. In addition, it proposes to amend the federal regulations to withdraw freshwater acute and chronic aquatic life criteria for lead for the Los Angeles River and its tributaries.

1. Chlorodibromomethane and Dichlorobromomethane

On May 18, 2000, in the CTR, EPA promulgated federal regulations establishing water quality criteria for priority toxic pollutants for California. On November 3, 2011, California completed its adoption process to incorporate water quality criteria for chlorodibromomethane and dichlorobromomethane, for a segment of New Alamo Creek and a segment of Ulatis Creek. The State calls these criteria site-specific water quality objectives or site-specific objectives. On December 13, 2011, the State submitted the site-specific objectives to EPA Region 9 for review and approval.

On April 9, 2013, EPA approved site-specific objectives for that segment of New Alamo Creek and that segment of Ulatis Creek. The Central Valley Regional Water Quality Control Board adopted the objectives in Resolution No. R5–2010–0047, the California State Water Resources Control Board approved of the objectives in Resolution 2011–0036 and EPA subsequently approved the State Board action.

Because California now has site-specific human health (for water and organisms) criteria approved by EPA for CWA purposes for

chlorodibromomethane and dichlorobromomethane for a segment of New Alamo Creek and a segment of Ulatis Creek, EPA has determined that the federally promulgated human health (water and organisms) criteria are no longer needed for these particular waters. The incremental cancer risk levels associated with the California site-specific objectives, based on the risk assessment in EPA's National Recommended Water Quality Criteria (2006), would range from $10^{-4.55}$ to $10^{-4.91}$. EPA determined that these objectives assure that cancer risk to the most highly exposed population would not exceed a 10^{-4} cancer risk level, even if the population consumed 2 L/day of water and up to 17.5 g/day or more of fish/shellfish from the segments for a 70-year lifetime. States and authorized Tribes have the flexibility to adopt water quality criteria that result in a risk level higher than 10^{-6}, up to the 10^{-5} level. That flexibility is constrained, however, by the need for careful consideration of the associated exposure parameter assumptions, and whether the resulting criteria would expose sensitive subpopulations consuming fish at unsuppressed rates to no more than a 10^{-4} cancer risk. Thus, EPA approved the State's site-specific objectives, which are less stringent than the federally promulgated criteria, because EPA determined that the State's site-specific objectives were scientifically sound and protective of the designated use(s) for the segment of New Alamo Creek and the segment of Ulatis Creek. More information on EPA's action, which approved California's adopted objectives, including EPA's approval letter and Record of Decision, can be accessed at OW docket number EPA–HQ–OW–2017–0303.

The following has been excerpted from the Water Quality Control Plan for the California Regional Water Quality Control Board—Central Valley Region (Basin Plan)—Resolution No. R5–2010–0047. Attachment 1 includes under the heading ''ORGANIC CHEMICAL WATER QUALITY OBJECTIVES,'' California's recently adopted site-specific objectives for chlorodibromomethane and dichlorobromomethane, for a segment of New Alamo Creek and a segment of Ulatis Creek.

CHAPTER III: WATER QUALITY OBJECTIVES:

Revise the first paragraph of the Chemical Constituents section of Chapter III. Water Quality Objectives as follows:

Waters shall not contain chemical constituents in concentrations that adversely affect beneficial uses. The chemical constituent objectives in ~~Table~~ Tables III-1 and III-1A apply to the water bodies specified.

Table III-1A
Organic Chemical Water Quality Objectives

Constituent	***Maximum Concentration (ug/l)***	***Applicable Water Bodies***
Chlorodibromomethane (DBCM)	*4.9 µg/l*	*New Alamo Creek, from Old Alamo Creek to Ulatis Creek* *Ulatis Creek, from New Alamo Creek to Cache Slough*
Dichlorobromomethane (DCBM)	*16 µg/l*	*New Alamo Creek, from Old Alamo Creek to Ulatis Creek* *Ulatis Creek, from New Alamo Creek to Cache Slough*

As explained above, EPA seeks public comment before withdrawing the federally promulgated criteria because although these state criteria have been determined to be scientifically sound and protective of the designated use(s) for the particular waters and otherwise meet the requirements of the CWA and EPA's implementing regulations at 40

CFR 131, the state criteria are less stringent than the promulgated federal criteria (see Table 1). This proposal will result in the withdrawal of federal human health (water & organisms) criteria under the CTR for chlorodibromomethane and dichlorobromomethane for a segment of New Alamo Creek and a segment of Ulatis Creek. However, the criteria for chlorodibromomethane and dichlorobromomethane for other waters in California that are currently part of the CTR will remain in the federal promulgations.

TABLE 1—COMPARISON OF CTR PROMULGATIONS AND CA CRITERIA FOR CHLORODIBROMOMETHANE AND DICHLOROBROMOMETHANE FOR CERTAIN CA WATERS

Parameter and criterion	Source document	Criterion value µg/L
Chlorodibromomethane: Human Health Criterion for Consumption of Water and Organisms.	40 CFR 131.38 (or CTR)	0.41
	California Adopted and EPA approved for CWA Purposes, applicable to a segment of New Alamo Creek and a segment of Ulatis Creek, California.	4.9
Dichlorobromomethane: Human Health Criterion for Consumption of Water and Organisms.	40 CFR 131.38 (or CTR)	0.56
	California Adopted and EPA approved for CWA Purposes, applicable to a segment of New Alamo Creek and a segment of Ulatis Creek, California.	16

2. Lead

On May 18, 2000, in the CTR, EPA promulgated federal regulations establishing water quality criteria for priority toxic pollutants for California. On July 11, 2016, California completed its adoption process to incorporate water quality objectives for lead for the Los Angeles River and its tributaries. The State calls these criteria site-specific water quality objectives or site-specific objectives. On July 19, 2016, the State submitted the site-specific objectives to EPA Region 9 for review and approval. On December 12, 2016, EPA approved site-specific objectives for lead for the Los Angeles River and its tributaries. The Los Angeles Regional Water Quality Control Board adopted these site-specific objectives under Resolution No. R15–004. The California State Water Resources Control Board in Resolution No. 2015–0069 subsequently approved the Regional Board action on these site-specific objectives, and EPA subsequently approved the State Board action.

Because California now has site-specific objectives for lead for the protection of aquatic life, approved by EPA for CWA purposes, for the Los Angeles River and its tributaries, EPA has determined that the federally promulgated freshwater acute and chronic aquatic life criteria for lead are no longer needed for these particular waters. 40 CFR 131.11(b)(1)(ii) allows States to establish water quality criteria that are ''. . . modified to reflect site-specific conditions'', and, site-specific criteria still must be based on a sound scientific rationale in order to protect the designated use. The State's site-specific objectives for lead were based on a recalculation of the water quality objectives established in 40 CFR 131.38 using the EPA Recalculation Procedure; this procedure takes into account updates or revisions in the national dataset used in the national water quality criterion development. EPA found that the State's application of the Recalculation Procedure for lead to be consistent with guidance for the development of site-specific standards using recalculation procedures. Thus, EPA approved the State's site-specific objectives for lead, which are less stringent than the federally promulgated criteria, because EPA determined that the State's site-specific objectives were scientifically sound and protective of the designated use(s) for the Los Angeles River and its tributaries and met the requirements of the CWA and EPA's implementing regulations at 40 CFR 131. More information on EPA's action, which approved California's adopted objectives, including EPA's approval letter and Record of Decision can be accessed at OW docket number EPA–HQ–OW–2017–0303.

The following has been excerpted from the Water Quality Control Plan for the Los Angeles Regional Water Quality Control Board—Attachment A to: Revision of Lead Water Quality Objectives for Los Angeles River and Tributaries, Resolution No. R15–004.

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Revised Attachment A to Resolution No. R15-004

PROPOSED CHANGES TO BASIN PLAN

The following language will be added to Chapter 3, Water Quality Objectives of the Basin Plan:

…

Add new "Lead" heading and paragraph under section heading ***Priority Pollutants****. Changes are shown in underline text:*

Lead

For the Los Angeles River and its tributaries, the dissolved lead water quality objectives (in µg/L) are as follows[1]:

Acute (short-term) Lead Water Quality Objective Equation $_{Dissolved}$ *= (1.46203 – ln(hardness) * 0.145712) * e* $^{1.466*ln(hardness)-1.882}$

Chronic (4-day average) Lead Water Quality Objective Equation $_{Dissolved}$ *= (1.46203 – ln(hardness) * 0.145712) * e* $^{1.466*ln(hardness)-3.649}$

[1] The dissolved lead water quality objectives for the Los Angeles River and its tributaries are based on a recalculation of the water quality objectives established in 40 C.F.R. § 131.38 using the US EPA Recalculation Procedure (US EPA 1994, 1997).

BILLING CODE 6560–50–C

As explained above, EPA seeks public comment before withdrawing the federally promulgated criteria because although these state criteria have been determined to be scientifically sound and protective of the designated use(s) for the particular waters and otherwise meet the requirements of the CWA and EPA's implementing regulations at 40 CFR 131, the state criteria are less stringent than the promulgated federal criteria (see Table 2 in this preamble). This proposal will result in the withdrawal of federal freshwater acute and chronic criteria for lead under the CTR for the Los Angeles River and its tributaries. However, the criteria for lead for other waters in California that are currently part of the CTR will remain in the federal promulgations.

TABLE 2—COMPARISON OF CTR PROMULGATIONS AND CA CRITERIA FOR LEAD FOR CERTAIN CA WATERS

Criterion	Source document	Criterion value
Freshwater Acute Criterion or Criterion Maximum Concentration.	40 CFR 131.38 (or CTR)	CMC = $e^{(1.273 * ln(hardness) - 1.460)} * (1.46203 - ln(hardness) * 0.145712)$. 65 µg/L, corresponding to a total hardness of 100 mg/L.
	California Adopted and EPA approved for CWA Purposes, applicable to the Los Angeles River and its tributaries.	CMC = $e^{(1.466 * ln(hardness) - 1.882)} * (1.46203 - ln(hardness) * 0.145712)$. 103 µg/L, corresponding to a total hardness of 100 mg/L.

TABLE 2—COMPARISON OF CTR PROMULGATIONS AND CA CRITERIA FOR LEAD FOR CERTAIN CA WATERS—Continued

Criterion	Source document	Criterion value
Freshwater Chronic Criterion or Criterion Continuous Concentration.	40 CFR 131.38 (or CTR)	CCC = $e^{(1.273 * \ln(\text{hardness}) - 4.705)} * (1.46203 - \ln(\text{hardness}) * 0.145712)$. 2.5 μg/L, corresponding to a total hardness of 100 mg/L.
	California Adopted and EPA approved for CWA Purposes, applicable to the Los Angeles River and its tributaries.	CCC = $e^{(1.466 * \ln(\text{hardness}) - 3.649)} * (1.46203 - \ln(\text{hardness}) * 0.145712)$. 17.6 μg/L, corresponding to a total hardness of 100 mg/L.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is expected to be an Executive Order 13771 deregulatory action. This proposed rule is expected to provide meaningful burden reduction by withdrawal of certain federally promulgated criteria in certain waters of California.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information-collection burden under the PRA because it is administratively withdrawing federal requirements that are no longer needed in California. It does not include any information-collection, reporting, or recordkeeping requirements. The OMB has previously approved the information collection requirements contained in the existing regulations 40 CFR part 131 and has assigned OMB control number 2040–0286.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Small entities, such as small businesses or small governmental jurisdictions, are not directly regulated by this rule.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. As this action proposes to withdraw certain federally promulgated criteria, the action imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule imposes no regulatory requirements or costs on any state or local governments. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comment on this proposed action from state and local officials.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This rule imposes no regulatory requirements or costs on any tribal government. It does not have substantial direct effects on tribal governments, the relationship between the federal government and tribes, or on the distribution of power and responsibilities between the federal government and tribes. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act

This proposed rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). EPA has previously determined, based on the most current science and EPA's CWA Section 304(a) recommended criteria, that California's adopted and EPA-approved criteria are protective of human health.

List of Subjects in 40 CFR Part 131

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control.

Dated: November 20, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble title 40, Chapter I, part 131 of

the Code of Federal Regulations is proposed to be amended as follows:

PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 2. Amend § 131.38, by revising the table in paragraph (b)(1) to read as follows:

§ 131.38 Establishment of numeric criteria for priority toxic pollutants for the State of California.

* * * * *

(b)(1) * * *

A		B Freshwater		C Saltwater		D Human health (10^{-6} risk for carcinogens) for consumption of	
Number compound	CAS No.	Criterion maximum conc. d (µg/L) B1	Criterion continuous conc. d (µg/L) B2	Criterion maximum conc. d (µg/L) C1	Criterion continuous conc. d (µg/L) C2	Water & organisms (µg/L) D1	Organisms only (µg/L) D2
1. Antimony	7440360					14 a,s	4300 a,t.
2. Arsenic b	7440382	340 i,m,w	150 i,m,w	69 i,m	36 i,m.		
3. Beryllium	7440417					n	n.
4. Cadmium b	7440439	4.3 e,i,m,w,x	2.2 e,i,m,w	42 i,m	9.3 i,m	n	n.
5a. Chromium (III)	16065831	550 e,i,m,o	180 e,i,m,o			n	n.
5b. Chromium (VI) b	18540299	16 i,m,w	11 i,m,w	1100 i,m	50 i,m	n	n.
6. Copper b	7440508	13 e,i,m,w,x	9.0 e,i,m,w	4.8 i,m	3.1 i,m	1300.	
7. Lead b	7439921	65 e,i,m,z	2.5 e,i,m,z	210 i,m	8.1 i,m	n	n.
8. Mercury b	7439976	[Reserved]	[Reserved]	[Reserved]	[Reserved]	0.050 a	0.051 a.
9. Nickel b	7440020	470 e,i,m,w	52 e,i,m,w	74 i,m	8.2 i,m	610 a	4600 a.
10. Selenium b	7782492	[Reserved] p	5.0 q	290 i,m	71 i,m	n	n.
11. Silver b	7440224	3.4 e,i,m		1.9 i,m.			
12. Thallium	7440280					1.7 a,s	6.3 a,t.
13. Zinc b	7440666	120 e,i,m,w,x	120 e,i,m,w	90 i,m	81 i,m.		
14. Cyanide b	57125	22 o	5.2 o	1 r	1 r	700 a	220,000 a,j.
15. Asbestos	1332214					7,000,000 fibers/L k,s	
16. 2,3,7,8–TCDD (Dioxin)	1746016					0.000000013 c	0.000000014 c.
17. Acrolein	107028					320 s	780 t.
18. Acrylonitrile	107131					0.059 a,c,s	0.66 a,c,t.
19. Benzene	71432					1.2 a,c	71 a,c.
20. Bromoform	75252					4.3 a,c	360 a,c.
21. Carbon Tetrachloride	56235					0.25 a,c,s	4.4 a,c,t.
22. Chlorobenzene	108907					680 a,s	21,000 a,j,t.
23. Chlorodibromomethane	124481					0.41 a,c,y	34 a,c.
24. Chloroethane	75003						
25. 2-Chloroethylvinyl Ether	110758						
26. Chloroform	67663					[Reserved]	[Reserved].
27. Dichlorobromomethane	75274					0.56 a,c,y	46 a,c.
28. 1,1-Dichloroethane	75343						
29. 1,2-Dichloroethane	107062					0.38 a,c,s	99 a,c,t.
30. 1,1-Dichloroethylene	75354					0.057 a,c,s	3.2 a,c,t.
31. 1,2-Dichloropropane	78875					0.52 a	39 a.
32. 1,3-Dichloropropylene	542756					10 a,s	1,700 a,t.
33. Ethylbenzene	100414					3,100 a,s	29,000 a,t.
34. Methyl Bromide	74839					48 a	4,000 a.
35. Methyl Chloride	74873					n	n.
36. Methylene Chloride	75092					4.7 a,c	1,600 a,c.
37. 1,1,2,2-Tetrachloroethane	79345					0.17 a,c,s	11 a,c,t.
38. Tetrachloroethylene	127184					0.8 c,s	8.85 c,t.
39. Toluene	108883					6,800 a	200,000 a.
40. 1,2-Trans-Dichloroethylene	156605					700 a	140,000 a.
41. 1,1,1-Trichloroethane	71556					n	n.
42. 1,1,2-Trichloroethane	79005					0.60 a,c,s	42 a,c,t.
43. Trichloroethylene	79016					2.7 c,s	81 c,t.
44. Vinyl Chloride	75014					2 c,s	525 c,t.
45. 2-Chlorophenol	95578					120 a	400 a.
46. 2,4-Dichlorophenol	120832					93 a,s	790 a,t.
47. 2,4-Dimethylphenol	105679					540 a	2,300 a.
48. 2-Methyl-4,6-Dinitrophenol	534521					13.4 s	765 t.
49. 2,4-Dinitrophenol	51285					70 a,s	14,000 a,t.
50. 2-Nitrophenol	88755						
51. 4-Nitrophenol	100027						
52. 3-Methyl-4-Chlorophenol	59507						
53. Pentachlorophenol	87865	19 f,w	15 f,w	13	7.9	0.28 a,c	8.2 a,c,j.
54. Phenol	108952					21,000 a	4,600,000 a,j,t.
55. 2,4,6-Trichlorophenol	88062					2.1 a,c	6.5 a,c.
56. Acenaphthene	83329					1,200 a	2,700 a.
57. Acenaphthylene	208968						
58. Anthracene	120127					9,600 a	110,000 a.
59. Benzidine	92875					0.00012 a,c,s	0.00054 a,c,t.
60. Benzo(a)Anthracene	56553					0.0044 a,c	0.049 a,c.
61. Benzo(a)Pyrene	50328					0.0044 a,c	0.049 a,c.
62. Benzo(b)Fluoranthene	205992					0.0044 a,c	0.049 a,c.
63. Benzo(ghi)Perylene	191242						
64. Benzo(k)Fluoranthene	207089					0.0044 a,c	0.049 a,c.
65. Bis(2-Chloroethoxy)Methane	111911						
66. Bis(2-Chloroethyl)Ether	111444					0.031 a,c,s	1.4 a,c,t.

A		B Freshwater		C Saltwater		D Human health (10^{-6} risk for carcinogens) for consumption of	
Number compound	CAS No.	Criterion maximum conc. d (µg/L) B1	Criterion continuous conc. d (µg/L) B2	Criterion maximum conc. d (µg/L) C1	Criterion continuous conc. d (µg/L) C2	Water & organisms (µg/L) D1	Organisms only (µg/L) D2
67. Bis(2-Chloroisopropyl)Ether	108601					1,400 a	170,000 a,t.
68. Bis(2-Ethylhexyl)Phthalate	117817					1.8 a,c,s	5.9 a,c,t.
69. 4-Bromophenyl Phenyl Ether	101553						
70. Butylbenzyl Phthalate	85687					3,000 a	5,200 a.
71. 2-Chloronaphthalene	91587					1,700 a	4,300 a.
72. 4-Chlorophenyl Phenyl Ether	7005723						
73. Chrysene	218019					0.0044 a,c	0.049 a,c.
74. Dibenzo(a,h)Anthracene	53703					0.0044 a,c	0.049 a,c.
75. 1,2 Dichlorobenzene	95501					2,700 a	17,000 a.
76. 1,3 Dichlorobenzene	541731					400	2,600.
77. 1,4 Dichlorobenzene	106467					400	2,600.
78. 3,3′-Dichlorobenzidine	91941					0.04 a,c,s	0.077 a,c,t.
79. Diethyl Phthalate	84662					23,000 a,s	120,000 a,t.
80. Dimethyl Phthalate	131113					313,000 s	2,900,000 t.
81. Di-n-Butyl Phthalate	84742					2,700 a,s	12,000 a,t.
82. 2,4-Dinitrotoluene	121142					0.11 c,s	9.1 c,t.
83. 2,6-Dinitrotoluene	606202						
84. Di-n-Octyl Phthalate	117840						
85. 1,2-Diphenylhydrazine	122667					0.040 a,c,s	0.54 a,c,t.
86. Fluoranthene	206440					300 a	370 a.
87. Fluorene	86737					1,300 a	14,000 a.
88. Hexachlorobenzene	118741					0.00075 a,c	0.00077 a,c.
89. Hexachlorobutadiene	87683					0.44 a,c,s	50 a,c,t.
90. Hexachlorocyclopentadiene	77474					240 a,s	17,000 a,j,t.
91. Hexachloroethane	67721					1.9 a,c,s	8.9 a,c,t.
92. Indeno(1,2,3-cd) Pyrene	193395					0.0044 a,c	0.049 a,c.
93. Isophorone	78591					8.4 c,s	600 c,t.
94. Naphthalene	91203						
95. Nitrobenzene	98953					17 a,s	1,900 a,j,t.
96. N-Nitrosodimethylamine	62759					0.00069 a,c,s	8.1 a,c,t.
97. N-Nitrosodi-n-Propylamine	621647					0.005 a	1.4 a.
98. N-Nitrosodiphenylamine	86306					5.0 a,c,s	16 a,c,t.
99. Phenanthrene	85018						
100. Pyrene	129000					960 a	11,000 a.
101. 1,2,4-Trichlorobenzene	120821						
102. Aldrin	309002	3 g		1.3 g		0.00013 a,c	0.00014 a,c.
103. alpha-BHC	319846					0.0039 a,c	0.013 a,c.
104. beta-BHC	319857					0.014 a,c	0.046 a,c.
105. gamma-BHC	58899	0.95 w		0.16 g		0.019 c	0.063 c.
106. delta-BHC	319868						
107. Chlordane	57749	2.4 g	0.0043 g	0.09 g	0.004 g	0.00057 a,c	0.00059 a,c.
108. 4,4′-DDT	50293	1.1 g	0.001 g	0.13 g	0.001 g	0.00059 a,c	0.00059 a,c.
109. 4,4′-DDE	72559					0.00059 a,c	0.00059 a,c.
110. 4,4′-DDD	72548					0.00083 a,c	0.00084 a,c.
111. Dieldrin	60571	0.24 w	0.056 w	0.71 g	0.0019 g	0.00014 a,c	0.00014 a,c.
112. alpha-Endosulfan	959988	0.22 g	0.056 g	0.034 g	0.0087 g	110 a	240 a.
113. beta-Endosulfan	33213659	0.22 g	0.056 g	0.034 g	0.0087 g	110 a	240 a.
114. Endosulfan Sulfate	1031078					110 a	240 a.
115. Endrin	72208	0.086 w	0.036 w	0.037 g	0.0023 g	0.76 a	0.81 a,j.
116. Endrin Aldehyde	7421934					0.76 a	0.81 a,j.
117. Heptachlor	76448	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00021 a,c	0.00021 a,c.
118. Heptachlor Epoxide	1024573	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00010 a,c	0.00011 a,c.
119–125. Polychlorinated biphenyls (PCBs).			0.014 u		0.03 u	0.00017 c,v	0.00017 c,v.
126. Toxaphene	8001352	0.73	0.0002	0.21	0.0002	0.00073 a,c	0.00075 a,c.
Total Number of Criteria h		22	21	22	20	92	90.

Footnotes to Table in Paragraph (b)(1)

a. Criteria revised to reflect the Agency q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of October 1, 1996. The fish tissue bioconcentration factor (BCF) from the 1980 documents was retained in each case.

b. Criteria apply to California waters except for those waters subject to objectives in Tables III–2A and III–2B of the San Francisco Regional Water Quality Control Board's (SFRWQCB) 1986 Basin Plan that were adopted by the SFRWQCB and the State Water Resources Control Board, approved by EPA, and which continue to apply. For copper and nickel, criteria apply to California waters except for waters south of Dumbarton Bridge in San Francisco Bay that are subject to the objectives in the SFRWQCB's Basin Plan as amended by SFRWQCB Resolution R2–2002–0061, dated May 22, 2002, and approved by the State Water Resources Control Board. EPA approved the aquatic life site-specific objectives on January 21, 2003. The copper and nickel aquatic life site-specific objectives contained in the amended Basin Plan apply instead.

c. Criteria are based on carcinogenicity of 10 (−6) risk.

d. Criteria Maximum Concentration (CMC) equals the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time without deleterious effects. Criteria Continuous Concentration (CCC) equals the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects. ug/L equals micrograms per liter.

e. Freshwater aquatic life criteria for metals are expressed as a function of total hardness (mg/L) in the water body. The equations are provided in matrix at paragraph (b)(2) of this section. Values displayed above in the matrix correspond to a total hardness of 100 mg/l.

f. Freshwater aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows: Values displayed above in the matrix correspond to a pH of 7.8. CMC = exp(1.005(pH) − 4.869). CCC = exp(1.005(pH) − 5.134).

g. This criterion is based on 304(a) aquatic life criterion issued in 1980, and was issued in one of the following documents: Aldrin/Dieldrin (EPA 440/5–80–019), Chlordane (EPA 440/5–80–027), DDT (EPA 440/5–80–038), Endosulfan (EPA 440/5–80–046), Endrin (EPA 440/5–80–047), Heptachlor (440/5–80–052), Hexachlorocyclohexane (EPA 440/5–80–054), Silver (EPA 440/5–80–071). The Minimum Data Requirements and derivation procedures were different in the 1980 Guidelines than in the 1985 Guidelines. For example, a ''CMC'' derived using the 1980 Guidelines was derived to be used as an instantaneous maximum. If assessment is to be done using an averaging period, the values given should be divided by 2 to obtain a value that is more comparable to a CMC derived using the 1985 Guidelines.

h. These totals simply sum the criteria in each column. For aquatic life, there are 23 priority toxic pollutants with some type of freshwater or saltwater, acute or chronic criteria. For human health, there are 92 priority toxic pollutants with either ''water + organism'' or ''organism only'' criteria. Note that these totals count chromium as one pollutant even though EPA has developed criteria based on two valence states. In the matrix, EPA has assigned numbers 5a and 5b to the criteria for chromium to reflect the fact that the list of 126 priority pollutants includes only a single listing for chromium.

i. Criteria for these metals are expressed as a function of the water-effect ratio, WER, as defined in paragraph (c) of this section. CMC = column B1 or C1 value × WER; CCC = column B2 or C2 value × WER.

j. No criterion for protection of human health from consumption of aquatic organisms (excluding water) was presented in the 1980 criteria document or in the 1986 Quality Criteria for Water. Nevertheless, sufficient information was presented in the 1980 document to allow a calculation of a criterion, even though the results of such a calculation were not shown in the document.

k. The CWA 304(a) criterion for asbestos is the MCL.

l. [Reserved]

m. These freshwater and saltwater criteria for metals are expressed in terms of the dissolved fraction of the metal in the water column. Criterion values were calculated by using EPA's Clean Water Act 304(a) guidance values (described in the total recoverable fraction) and then applying the conversion factors in § 131.36(b)(1) and (2).

n. EPA is not promulgating human health criteria for these contaminants. However, permit authorities should address these contaminants in NPDES permit actions using the State's existing narrative criteria for toxics.

o. These criteria were promulgated for specific waters in California in the National Toxics Rule (''NTR''), at § 131.36. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays or estuaries and waters of the State defined as inland, *i.e.,* all surface waters of the State not ocean waters. These waters specifically include the San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta. This section does not apply instead of the NTR for this criterion.

p. A criterion of 20 ug/l was promulgated for specific waters in California in the NTR and was promulgated in the total recoverable form. The specific waters to which the NTR criterion applies include: Waters of the San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta; and waters of Salt Slough, Mud Slough (north) and the San Joaquin River, Sack Dam to the mouth of the Merced River. This section does not apply instead of the NTR for this criterion. The State of California adopted and EPA approved a site specific criterion for the San Joaquin River, mouth of Merced to Vernalis; therefore, this section does not apply to these waters.

q. This criterion is expressed in the total recoverable form. This criterion was promulgated for specific waters in California in the NTR and was promulgated in the total recoverable form. The specific waters to which the NTR criterion applies include: Waters of the San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta; and waters of Salt Slough, Mud Slough (north) and the San Joaquin River, Sack Dam to Vernalis. This criterion does not apply instead of the NTR for these waters. This criterion applies to additional waters of the United States in the State of California pursuant to 40 CFR 131.38(c). The State of California adopted and EPA approved a site-specific criterion for the Grassland Water District, San Luis National Wildlife Refuge, and the Los Banos State Wildlife Refuge; therefore, this criterion does not apply to these waters.

r. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays or estuaries including the Sacramento-San Joaquin Delta within California Regional Water Board 5, but excluding the San Francisco Bay. This section does not apply instead of the NTR for these criteria.

s. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the Sacramento-San Joaquin Delta and waters of the State defined as inland (*i.e.,* all surface waters of the State not bays or estuaries or ocean) that include a MUN use designation. This section does not apply instead of the NTR for these criteria.

t. These criteria were promulgated for specific waters in California in the NTR. The specific waters to which the NTR criteria apply include: Waters of the State defined as bays and estuaries including San Francisco Bay upstream to and including Suisun Bay and the Sacramento-San Joaquin Delta; and waters of the State defined as inland (*i.e.,* all surface waters of the State not bays or estuaries or ocean) without a MUN use designation. This section does not apply instead of the NTR for these criteria.

u. PCBs are a class of chemicals which include aroclors 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825, and 12674112, respectively. The aquatic life criteria apply to the sum of this set of seven aroclors.

v. This criterion applies to total PCBs, *e.g.,* the sum of all congener or isomer or homolog or aroclor analyses.

w. This criterion has been recalculated pursuant to the 1995 Updates: Water Quality Criteria Documents for the Protection of Aquatic Life in Ambient Water, Office of Water, EPA–820–B–96–001, September 1996. See also Great Lakes Water Quality Initiative Criteria Documents for the Protection of Aquatic Life in Ambient Water, Office of Water, EPA–80–B–95–004, March 1995.

x. The State of California has adopted and EPA has approved site-specific criteria for the Sacramento River (and tributaries) above Hamilton City; therefore, these criteria do not apply to these waters.

y. The State of California adopted and EPA approved a site-specific criterion for New Alamo Creek from Old Alamo Creek to Ulatis Creek and for Ulatis Creek from Alamo Creek to Cache Slough; therefore, this criterion does not apply to these waters.

z. The State of California adopted and EPA approved a site-specific criterion for the Los Angeles River and its tributaries; therefore, this criterion does not apply to these waters.

General Notes to Table in Paragraph (b)(1)

1. The table in this paragraph (b)(1) lists all of EPA's priority toxic pollutants whether or not criteria guidance are available. Blank spaces indicate the absence of national section 304(a) criteria guidance. Because of variations in chemical nomenclature systems, this listing of toxic pollutants does not duplicate the listing in appendix A to 40 CFR part 423–126 Priority Pollutants. EPA has added the Chemical Abstracts Service (CAS) registry numbers, which provide a unique identification for each chemical.

2. The following chemicals have organoleptic-based criteria recommendations that are not included on this chart: zinc, 3-methyl-4-chlorophenol.

3. Freshwater and saltwater aquatic life criteria apply as specified in paragraph (c)(3) of this section.

* * * * *

[FR Doc. 2017–25706 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170818784–7784–01]

RIN 0648–XF641

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Proposed 2018–2020 Fishing Quotas

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2018 and projected status quo quotas for 2019 and 2020. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action would also continue to suspend the minimum shell size for Atlantic surfclams for the 2018 fishing year. The intended effect of this action is to provide benefit to the industry from stable quotas to maintain a consistent market.

DATES: Comments must be received by December 26, 2017.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2017–0118, by any of the following methods:

- *Federal e-Rulemaking Portal.* Go to *www.regulations.gov,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on the 2018–2020 Surflcam/Ocean Quahog Specifications.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are part of the public record and will generally be posted to *www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.)

voluntarily submitted by the commenter may be publically accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the Environmental Assessment (EA), Supplemental Information Request (SIR), and other supporting documents for these proposed specifications are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Erin Wilkinson, Fishery Management Specialist, 301–427–8561.

SUPPLEMENTARY INFORMATION: The Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) requires that NMFS, in consultation with the Mid-Atlantic Fishery Management Council, specify quotas for surfclam and ocean quahog for up to a three-year period, with annual review. It is the policy of the Council that the catch limit selected allow for sustainable fishing to continue at that level for at least 10 years for surfclams, and 30 years for ocean quahogs. In addition to this, the Council policy also considers the economic impact of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481; May 19, 1998) added Maine ocean quahogs (locally known as Maine mahogany quahogs) to the management unit and provided for a small artisanal fishery for ocean quahogs in the waters north of 43°50′ N. lat, with an annual quota within a range of 17,000 to 100,000 Maine bu (0.6 to 3.52 million L). As specified in Amendment 10, the Maine ocean quahog quota is allocated separately from the quota specified for the ocean quahog fishery. Regulations implementing Amendment 13 to the FMP (68 FR 69970; December 16, 2003) established the authority to propose multi-year quotas with an annual quota review to be conducted by the Council to determine if the multi-year quota specifications remain appropriate for each year. NMFS then publishes the annual final quotas in the **Federal Register**. The fishing quotas must ensure overfishing will not occur. In recommending these quotas, the Council considered the most recent stock assessments and other relevant scientific information.

In June 2017, the Council voted to recommend maintaining for 2018–2020 the status quo quota levels of 5.33 million bu (288 million L) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery.

We propose to implement the Council's recommended specifications for 2018 and project that the Council's recommended specifications for 2019 and 2020 will be implemented in those years. Because the Council will review available information in the interim years and adjustments to quotas may occur to account for annual catch limit (ACL) overages, the 2019 and 2020 quotas proposed are considered the projected specifications. We will provide notice in the **Federal Register** before the 2019 and 2020 fishing years announcing the final quotas being implemented.

Tables 1 and 2 show proposed and projected quotas for the 2018–2020 Atlantic surfclam and ocean quahog fishery.

TABLE 1—PROPOSED ATLANTIC SURFCLAM MEASURES

Atlantic surfclam				
Year	Allowable biological catch (ABC) (mt)	Annual catch limit (ACL) (mt)	Annual catch target (ACT) (mt)	Commercial quota
2017 (current)	44,469	44,469	29,364	3.4 million bushels (181 million L).
2018	29,363	29,363	29,363	3.4 million bushels (181 million L).
2019–2020 (Projected)	29,363	29,363	29,363	3.4 million bushels (181 million L).

TABLE 2—PROPOSED OCEAN QUAHOG MEASURES

Ocean quahog				
Year	ABC (mt)	ACL (mt)	ACT (mt)	Commercial quota
2017 (current)	26,100	26,100	26,035	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L).
2018	44,695	44,695	25,924	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L).
2019 (Projected)	46,146	46,146	25,924	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L).
2020 (Projected)	45,783	45,783	25,924	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L).

The Atlantic surfclam and ocean quahog quotas are specified in ''industry'' bushels of 1.88 ft^3 (53.24 L) per bushel, while the Maine ocean quahog quota is specified in Maine bushels of 1.24 ft^3 (35.24 L) per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is below the level that would result in overfishing for the entire stock. The 2018–2020 quotas are nearly identical (within 100 mt) to those implemented in the 2014–2016 specifications, which were carried over for 2017.

Surfclam

The proposed 2018–2020 status quo surfclam quota was developed in June 2017 after reviewing the results of the Northeast Regional Stock Assessment Workshop (SAW) 61 for Atlantic surfclam. The surfclam quota recommendation is consistent with the SAW 61 finding that the Atlantic surfclam stock is not overfished, and overfishing is not occurring. Based on this information, the Council is recommending, and NMFS is proposing, to maintain the status quo surfclam quota of 3.40 million bu (181 million L) for 2018–2020 (see table 1).

Ocean Quahog

Consistent with the Council recommendation, we are proposing the following for ocean quahog. The proposed 2018–2020 non-Maine quota for ocean quahog is the status quo quota of 5.33 million bu (288 million L).

The 2018–2020 proposed quota for Maine ocean quahogs is the status quo level of 100,000 Maine bu (3.52 million L). The proposed quota represents the maximum allowable quota under the FMP.

Surfclam Minimum Size

In June 2017, the Council voted to recommend that the minimum size limit for surfclams continue to be suspended for 2018. The minimum size limit has been suspended annually since 2005. Minimum size suspension may not be taken unless discard, catch, and biological sampling data indicate that 30 percent or more of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 mm), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

Commercial surfclam data for 2017 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 10.4 percent of the overall commercial landings, to date, were composed of surfclams that were less than the 4.75-inch (120-mm) default minimum size. Based on the information available, the Regional Administrator concurs with the Council's recommendation, and is proposing to suspend the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2018).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

This proposed rule is exempt from the requirements of E.O. 12866.

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

For Regulatory Flexibility Analysis purposes only, NMFS has established a uniform size standard for small businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts of less than $11 million for all its affiliated operations worldwide. In 2016, 349 fishing firms held at least one surfclam or ocean quahog permit. Using the $11 million cutoff for firms, there are 341 entities that are small and 8 that are large. In order to provide a more accurate count and description of the small directly regulated entities, landings data were evaluated to select only firms that were active in either the surfclam or the ocean quahog fishery. There are 24 active fishing firms, of which 22 are small entities and 2 are large entities.

Because the proposed quotas are status quo, the action would have no impacts on the way the fishery operates. These measures are expected to provide similar fishing opportunities in 2018–2020 when compared to earlier years. As such, revenue changes are not expected in 2018–2020 when compared to landings and revenues in 2017. Therefore, adoption of the proposed specifications are not expected to have impacts on entities participating in the fishery if landings are similar to those that occurred in 2017.

Maintaining the suspension of the surfclam minimum shell length requirement would result in no change when compared to 2014–2016. The minimum shell length requirement has been suspended each year since 2005. The proposed action would have no impact on the way the fishery operates, and is not expected to disproportionately affect small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

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

Dated: December 6, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Progams, National Marine Fisheries Service.

[FR Doc. 2017–26577 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 82, No. 236

Monday, December 11, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0096]

Nuseed Americas Inc.; Availability of Petition for Determination of Nonregulated Status of Canola Genetically Engineered for Altered Oil Profile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Nuseed Americas Inc. (Nuseed) seeking a determination of nonregulated status of canola designated as event B0050–027, which has been genetically engineered to accumulate the long chain omega-3 fatty acid known as docosahexaenoic acid in seed. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. We are making the Nuseed petition available for review and comment to help us identify potential environmental and interrelated economic issues and impacts that the Animal and Plant Health Inspection Service may determine should be considered in our evaluation of the petition.

DATES: We will consider all comments that we receive on or before February 9, 2018.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0096.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0096, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0096* or in our reading Room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

The petition is also available on the APHIS Web site at: *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS petition 17–236–01p.

FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3954; email: *john.t.turner@aphis.usda.gov.* To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 17–236–01p) from Nuseed Americas Inc. (Nuseed), seeking a determination of nonregulated status of canola (*Brassica* spp.) designated as event B0050–027, which has been genetically engineered to accumulate the long chain omega-3 fatty acid known as docosahexaenoic acid (DHA) in seed. The Nuseed petition states that information collected during field trials and laboratory analyses indicates that B0050–027 canola is not likely to be a plant pest and therefore should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, B0050–027 canola was developed through *Agrobacterium tumefaciens*-mediated transformation of canola cultivar AV Jade with binary vector pJP3416_GA7–ModB. Characterization of the DHA canola event revealed two DNA inserts which matched the reference of the vector. The expressed DHA pathway enzymes are very low in concentration and are only expressed in the seed, and the agronomic properties of the event are no different than AV Jade. B0050–027 canola is currently regulated under 7 CFR part 340. Interstate movements and field tests of B0050–027 canola have been conducted under notifications acknowledged by APHIS.

Field tests conducted under APHIS oversight allowed for evaluation in a natural agricultural setting while imposing measures to minimize the likelihood of persistence in the environment after completion of the tests. Data are gathered on multiple parameters and used by the applicant to evaluate agronomic characteristics and product performance. These and other data are used by APHIS to determine if the new variety poses a plant pest risk.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment for petitions for a determination of nonregulated status. On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice [1] describing our process for soliciting public comment when considering petitions for determinations of nonregulated status for GE organisms. In that notice we indicated that APHIS

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

would accept written comments regarding a petition once APHIS deemed it complete.

In accordance with § 340.6(d) of the regulations and our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. The petition is available for public review and comment, and copies are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. We are interested in receiving comments regarding potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. Any substantive issues identified by APHIS based on our review of the petition and our evaluation and analysis of comments will be considered in the development of our decision-making documents. As part of our decision-making process regarding a GE organism's regulatory status, APHIS prepares a plant pest risk assessment to assess its plant pest risk and the appropriate environmental documentation—either an environmental assessment (EA) or an environmental impact statement (EIS)—in accordance with the National Environmental Policy Act (NEPA), to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request. For petitions for which APHIS prepares an EA, APHIS will follow our published process for soliciting public comment (see footnote 1) and publish a separate notice in the **Federal Register** announcing the availability of APHIS' EA and plant pest risk assessment.

Should APHIS determine that an EIS is necessary, APHIS will complete the NEPA EIS process in accordance with Council on Environmental Quality regulations (40 CFR part 1500–1508) and APHIS' NEPA implementing regulations (7 CFR part 372).

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 5th day of December 2017.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–26584 Filed 12–8–17; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meetings of the Arizona Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Mountain Time) Monday, December 18, 2017, and 12:00 p.m. (Mountain Time), Wednesday, January 17, 2018. The purpose of the meetings is for the Committee to discuss logistics for March 9, 2018 briefing on voting rights.

DATES: The meeting will be held on Monday, December 18, 2017, at 12:00 p.m. MT, and on Wednesday, January 17, 2018, at 12:00 p.m. MT.

ADDRESSES: Public call information:
Dial: 866–290–0883.
Conference ID: 2510813.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meetings are available to the public through the following toll-free call-in number: 866–290–0883, conference ID number: 2510813. Any interested member of the public may call this number and listen to the meetings. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://facadatabase.gov/committee/meetings.aspx?cid=235.*

Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's Web site, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approval of minutes from previous meeting
III. Discuss Potential Speakers
IV. Next Steps
V. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for the December 18, 2017, meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of the committee needing to plan a briefing on voting rights to satisfy the U.S. Commission on Civil Rights' 2018 Statutory Enforcement report timeline.

Dated: December 6, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–26581 Filed 12–8–17; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Shantia Hassanshahi, a/k/a Shantia Hassan Shahi, a/k/a Shahi, a/k/a Shantia Haas, a/k/a Sean Haas, 6041 Weeping Banyan Lane, Woodland Hills, CA 91367; Amended Order Denying Export Privileges

On December 12, 2016, in the U.S. District Court for the District of Columbia, Shantia Hassanshahi, a/k/a Shantia Hassan Shahi, a/k/a Shahi, a/k/a Shantia Haas, a/k/a Sean Haas (''Hassanshahi'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (''IEEPA''). Specifically, Hassanshahi was convicted of willfully conspiring to export and cause the export of goods and technology from Canada to Iran, as well as services related thereto from the United States to Iran, without the required license from the U.S. Department of the Treasury's Office of Foreign Assets Control. Hassanshahi was sentenced to 12 months in prison, one year of supervised release, 100 hours of community service, and a $100 assessment.

On September 28, 2017, I issued an order denying Hassanshahi's export privileges, pursuant to Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations''), for a period of five (5) years from the date his conviction.[1] In addition, pursuant to Section 750.8 of the Regulations, the order also revoked any licenses issued pursuant to the Act or Regulations in which Hassanshahi had an interest at the time of his conviction.

Prior to issuance of the September 28, 2017 order, the Bureau of Industry and Security (''BIS''), in accordance with Section 766.25 of the Regulations, provided Hassanshahi notice of the proposed action and an opportunity to make a written submission opposing it. Notice was provided using the prison address for Hassanshahi, who received the notice letter on or about July 22, 2017, more than two months prior to the order's issuance. BIS did not receive a submission or other response to the Notice from Hassanshahi. The September 28, 2017 order—which issued based upon my review of the facts available to BIS at the time and my consultations with BIS's Office of Export Enforcement, including its Director—listed Hassanshahi's prison address as his last known address.

Following issuance of the September 28, 2017 order, BIS sought to send a copy of it to Hassanshahi at his prison address via first class mail. However, the package was returned to BIS, as it apparently arrived at the prison at or about the time Hassanshahi was being released. BIS has subsequently obtained updated information indicating that Hassanshahi's current address is 6041 Weeping Banyan Lane, Woodland Hills, CA 91367. Thus, the September 28, 2017 order needs to be amended to include the updated address information for purposes of the denial of Hassanshahi's export privileges. In addition, as set forth below, this amended order shall be delivered to Hassanshahi at his current address in Woodland Hills, California, and shall be published in the **Federal Register**.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until December 12, 2021, Shantia Hassanshahi, a/k/a Shantia Hassan Shahi, a/k/a Shahi, a/k/a Shantia Haas, a/k/a Sean Haas, with a last known address of 6041 Weeping Banyan Lane, Woodland Hills, CA 91367, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Hassanshahi by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Hassanshahi may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Hassanshahi, and shall be published in the **Federal Register**.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

Sixth, this Order is effective immediately and shall remain in effect until December 12, 2021.

Issued this 4th day of December, 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–26564 Filed 12–8–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–026, C–570–027]

Certain Corrosion-Resistant Steel Products From the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) or cold-rolled steel (CRS) flat products manufactured in the People's Republic of China (PRC), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from the PRC.

DATE: Applicable December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Mark Hoadley, 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) 482–0196 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

Certain domestic interested parties, Steel Dynamics, Inc. (SDI), California Steel Industries (CSI), ArcelorMittal USA LLC (AMUSA), Nucor Corporation (Nucor), United States Steel Corporation, and AK Steel Corporation (collectively, the domestic parties), filed submissions [1] alleging that imports of CORE from Vietnam made from HRS or CRS sourced from the PRC and exported to the United States as CORE of Vietnamese origin are circumventing the *CORE Orders.*[2] In their submissions, domestic parties requested the Department initiate anti-circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the PRC-origin HRS or CRS substrate input for finishing into CORE in Vietnam and subsequent sale of that CORE to the United States constitutes circumvention of the *CORE Orders.*

On November 14, 2016, the Department published the notice of initiation of anti-circumvention inquiries on imports of CORE from Vietnam.[3] On August 29, 2017, the Department postponed the final determination of these inquiries and the revised final deadlines are now February 15, 2018.[4] For a complete description of the events that followed the initiation of these inquiries, *see* the Preliminary Decision Memorandum.[5] A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary 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 *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, *see* the Preliminary Decision Memorandum.[6]

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE produced in Vietnam from HRS or CRS substrate input manufactured in the PRC and subsequently exported from Vietnam to the United States (inquiry merchandise). These preliminary rulings apply to all shipments of inquiry merchandise on or after the date of the initiation of these inquiries. Importers and exporters of CORE produced in Vietnam using (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS or CRS processed into CORE in Vietnam did not originate in the PRC, as provided for in the certifications attached to the **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties if the Department makes affirmative final determinations in these inquiries.

Methodology

The Department is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because Vietnam and the PRC [7] are non-market economy countries, within the meaning of section 771(18) of the Act, the Department has calculated the

[1] *See* Domestic Parties' Letter, ''Certain Cold-Rolled Steel Flat Products from China: Request for Circumvention Ruling,'' dated September 22, 2016 (Circumvention Ruling Request September 22, 2017), and Petitioners' Letter, ''Certain Cold-Rolled Steel Flat Products from the People's Republic of China—Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930,'' dated September 23, 2016 (Circumvention Ruling Request September 27, 2017).

[2] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016), and *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order,* 81 FR 48387 (July 25, 2016) (collectively *CORE Orders*).

[3] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 79454 (November 14, 2016) (*Initiation Notice*).

[4] *See* Letter, ''Certain Corrosion-Resistant Steel Products (CORE) from the People's Republic of China (PRC): Extension of Anti-Circumvention Final Determinations,'' August 29, 2017.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determinations in the Anti-Circumvention Inquiries of Certain Corrosion-Resistant Steel Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *Id.*

[7] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017) citing Memorandum to Gary Taverman, ''China's Status as a Non-Market Economy,'' dated October 26, 2017. *See also Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 81 FR 24797 (October 14, 2016) (unchanged in *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 18611 (April 20, 2017)).

value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. For a full description of the methodology underlying the Department's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CORE produced in Vietnam from HRS or CRS sourced from the PRC is circumventing the *CORE Orders.* We therefore preliminarily determine that it is appropriate to include this merchandise within the *CORE Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of CORE from Vietnam produced from HRS or CRS from the PRC.

Suspension of Liquidation

As stated above, the Department has made a preliminary affirmative finding of circumvention of the *CORE Orders* by exports to the United States of CORE produced in Vietnam from PRC-origin HRS or CRS. This circumvention finding applies to CORE produced by any Vietnamese company from PRC-origin HRS or CRS substrate input. In accordance with section 19 CFR 351.225(l)(2), the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam from PRC-origin HRS or CRS that were entered, or withdrawn from warehouse, for consumption on or after November 4, 2016, the date of initiation of the anti-circumvention inquiry.

The suspension of liquidation instructions will remain in effect until further notice. The Department will instruct CBP to require AD cash deposits equal to the rate established for the PRC-wide entity (199.43 percent) and CVD cash deposits equal to the rate established for the PRC all-others rate (39.05 percent). In the underlying AD and CVD investigations, the Department relied on the rates calculated for the sole cooperative respondent in each investigation to determine the PRC-wide rate of 199.43 percent in the AD investigation and the all-others rate of 39.05 percent in the CVD investigation. The rates are thus based on the cost and sales data and subsidy benefits of Chinese producers.

CORE produced in Vietnam from HRS or CRS that is not of PRC-origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. If an importer imports CORE from Vietnam and it claims that the CORE was not produced from HRS or CRS substrate manufactured in the PRC, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced from non-PRC origin HRS or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a copy of an Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CORE who did not use the PRC-origin HRS or CRS substrate.

Verification

As provided in 19 CFR 351.307, the Department intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in these anti-circumvention inquiries, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

The Department, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these anticircumvention inquiries within the *CORE Orders.* Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by the Department to provide written advice.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: December 5, 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 I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Voluntary Respondent Treatment
IV. Scope of the Orders
V. Scope of the Anti-Circumvention Inquiries
VI. Period of Review
VII. Surrogate Countries and Methodology for Valuing Inputs from the PRC and Processing In Vietnam
VIII. Statutory Framework
IX. Statutory Analysis
X. Country-Wide Determination
XI. Certification for Not Using PRC-Origin HRS or CRS
XII. Recommendation

Appendix II

Certification Requirements

If an importer imports CORE from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled or cold-rolled steel substrate (substrate) manufactured in the People's Republic of China (PRC), the importer is required to complete and maintain the

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

importer certification attached hereto as Appendix III. The importer and exporter are required to maintain the exporter certification attached hereto as Appendix IV. The importer certification must be completed, signed, and dated at the time of the entry of the CORE product. The exporter certification must be completed, signed, and dated at the time of shipment of the relevant entries. For shipments and/or entries on or after November 4, 2016, but before the publication of this notice in the **Federal Register**, for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the **Federal Register**. The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to CBP as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation, to the Department and/or U.S. Customs and Border Protection (CBP), as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by the Department and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, the Department intends to instruct CBP to suspend, under the PRC CORE orders (A–570–026, C–570–027), all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department of Commerce. Entries suspended under A–570–026 and C–570–027 will be liquidated pursuant to applicable administrative reviews of the PRC orders or through the automatic liquidation process.

Appendix III

Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification;
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled or cold-rolled steel substrate produced in the People's Republic of China (PRC);
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy ofthis certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY}is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (the Department);
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or the Department;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or the Department;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - ○ suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
  - ○ the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at the time of entry;
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature _____

_____

NAME OF COMPANY OFFICIAL

_____

TITLE

_____

DATE

Appendix IV

Exporter Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the corrosion-resistant steel products identified below;
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled or cold-rolled steel substrate produced in the People's Republic of China (PRC);
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of the this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer at the time of shipment;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (the Department);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or the Department;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - ○ suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
  - ○ the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department;
- This certification was completed at or prior to the time of shipment.
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government;

Signature _____

_____

NAME OF COMPANY OFFICIAL

_____

TITLE

_____

DATE

[FR Doc. 2017–26606 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–874]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) determines that countervailable subsidies are being

provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India. The period of investigation is April 1, 2016, through March 31, 2017.

DATES: Applicable December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Ryan Mullen or Carrie Bethea, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone 202–482–5260 or 202–482–1491, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2017, the Department published the *Preliminary Determination* in the **Federal Register**.[1]

A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the accompanying Issues and Decision Memorandum.[2] 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 *https://access.trade.gov* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope Comments

In the Department's Preliminary Scope Decision Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope) in scope case briefs or other written comments on scope issues.[3] Certain interested parties commented on the scope of the investigation as it appeared in the Preliminary Scope Decision Memorandum. For a summary of the product coverage comments and rebuttal responses submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.[4] *See* the scope in Appendix I to this notice.

Scope of the Investigation

The products covered by this investigation are cold-drawn mechanical tubing from India. For a complete description of the scope of this investigation, *see* ''Scope of the Investigation,'' in Appendix I of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs filed by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues parties raised and to which we responded in the Issues and Decisions Memorandum, is attached to this notice at Appendix II.

Verification

The Department conducted verification of the questionnaire responses submitted by the Government of India, Goodluck India Limited (Goodluck), and Tube Investments of India Limited (Tube Investments) between October 23, and October 31, 2017.

Use of Adverse Facts Available

If necessary information is not available on the record, or an interested party withholds information, fails to provide requested information in a timely manner, significantly impedes a proceeding by not providing information, or information provided cannot be verified, the Department will apply facts available, pursuant to section 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act). For purposes of this final determination, the Department relied, in part, on facts available and, because certain respondents did not cooperate by not acting to the best of their ability to respond to the Department's requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[5] A full discussion of our decision to rely on adverse facts available is presented in the ''Use of Facts Otherwise Available and Adverse Inferences'' section of the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, as well as additional items discovered at verification, we made certain changes to the respondents' subsidy rate calculations set forth in the *Preliminary Determination.* For a discussion of these changes, *see* the Issues and Decision Memorandum and the Final Calculation Memoranda.[6]

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each exporter/producer of the subject merchandise individually investigated, *i.e.,* Goodluck and Tube Investments. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an ''all-others'' rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the ''all-others'' rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated, as well as rates based entirely on facts otherwise available. Where the rates for the individually investigated companies are all zero or *de minimis,* or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an ''all-others'' rate using ''any reasonable method.''

In this investigation, the Department calculated individual countervailable subsidy rates for Goodluck and Tube Investments that are not zero, *de minimis,* or based entirely on facts otherwise available. The Department calculated the all-others rate using a weighted-average of the individual estimated subsidy rates calculated for

[1] *See* Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Affirmative Countervailing Duty Determination, 82 FR 44558 (September 25, 2017) and accompanying Preliminary Decision Memorandum (*Preliminary Determination*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India,'' dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated November 15, 2017 (Preliminary Scope Decision Memorandum).

[4] *See* Memorandum, ''Scope Comments Decision Memorandum for the Final Determinations,'' dated December 4, 2017 (Final Scope Decision Memorandum).

[5] *See* sections 776(a) and (b) of the Act.

[6] *See* Issues and Decision Memorandum; *see also* Memorandum, ''Final Determination Calculation for Goodluck India Limited,'' dated December 4, 2017 (Goodluck Final Calculation Memorandum) and Memorandum, ''Final Determination Calculation for Tube Investments of India Limited,'' dated December 4, 2017 (Tube Investments Final Calculation Memorandum) (collectively, Final Calculation Memoranda).

the examined respondents using each company's publicly-ranged values for the merchandise under consideration.

The final subsidy rates are as follows:

Company	Subsidy rate
Goodluck India Limited	8.02
Tube Investments of India Limited	42.60
All-Others	22.41

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of any entries of merchandise under consideration from India that were entered, or withdrawn from warehouse, for consumption on or after September 25, 2017, which is the publication date in the **Federal Register** of the *Preliminary Determination.*

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

U.S. International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Acting Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties such to an 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 the return or destruction of APO materials or, alternatively, conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

Notification to Interested Parties

This determination is published pursuant to section 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

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 I

Scope of the Investigation

The scope of this investigation covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.,* electric resistance welded, continuous welded, etc.) or seamless (*e.g.,* pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A–512, ASTM A–513 Type 3 (ASME SA513 Type 3), ASTM A–513 Type 4 (ASME SA513 Type 4), ASTM A–513 Type 5 (ASME SA513 Type 5), ASTM A–513 Type 6 (ASME SA513 Type 6), ASTM A–519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T–6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL–T–5066 and MIL–T–6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391–2, DIN 2393–2, DIN 2394–2);

(b) European Standards (EN) EN 10305–1, EN 10305–2, EN 10305–4, EN 10305–6 and European national variations on those standards (*e.g.,* British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of these investigations when it meets the physical description set forth above.

Steel products included in the scope of these investigations are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestructive testing, deburring or chamfering, remains within the scope of these investigations.

All products that meet the written physical description are within the scope of these investigations unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigations even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of these investigations:

(1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A–53;
- ASTM A–106;
- ASTM A–179 (ASME SA 179);
- ASTM A–192 (ASME SA 192);
- ASTM A–209 (ASME SA 209);
- ASTM A–210 (ASME SA 210);
- ASTM A–213 (ASME SA 213);
- ASTM A–334 (ASME SA 334);
- ASTM A–423 (ASME SA 423);
- ASTM A–498;
- ASTM A–496 (ASME SA 496);
- ASTM A–199;
- ASTM A–500;
- ASTM A–556;
- ASTM A–565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of these investigations.

The products subject to the investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Final Decision Memo

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Scope of the Investigation
VI. Subsidies Valuation Information
VII. Benchmarks and Interest Rates
VIII. Use of Facts Otherwise Available and Adverse Inferences
IX. Analysis of Programs
X. Discussion of the Issues
Comment 1: The Department's Application of AFA for the GOI's Failure to Provide Requested Information
Comment 2: Whether AAP and DDB Programs are Countervailable
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Comment 4: The Department's Treatment of SHIS
Comment 5: Whether the Benefit for MEIS is Determined at the Date of Issuance
Comment 6: Whether the Deduction under 32–AC of the Income Tax Act is Countervailable
Comment 7: The Department's Determination Regarding the Entry Tax Exemption for the Iron and Steel Industry in Uttar Pradesh
Comment 8: The Denominator Used to Calculate Goodluck's DDB Exemption
Comment 9: The Inclusion of Tube Investments' Non-Subject Merchandise in the Benefit Calculation for DDB
Comment 10: The Department's Calculation Methodology for Tube Investments' EPCGS Benefits
Comment 11: The Department's Application of AFA for Certain Unreported Subsidies Discovered at Tube Investments' Verification
Comment 12: The Department's Calculation Methodology for the Income Tax for Research and Development Program
Comment 13: The Department's Decision to Countervail Benefits for Tube Investments' Non-Subject Merchandise
Comment 14: The Revised Sales and Subsidy Data Presented as Minor Corrections
XI. Conclusion

[FR Doc. 2017–26609 Filed 12–8–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–059]

Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the People's Republic of China (PRC), as provided in section 705 of the Tariff Act of 1930 (the Act). The period of investigation is January 1, 2016, through December 31, 2016. For more information on the estimated subsidy rates, *see* the ''Final Determination'' section of this notice.

DATES: Applicable December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Shanah Lee at (202) 482–6386 or Alex Rosen at (202) 482–7814, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

Background

The Department published the *Preliminary Determination* on September 25, 2017.[1] A summary of events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[2] 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,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The product covered by this investigation is cold-drawn mechanical tubing from the PRC. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

Scope Comments

In the Department's Preliminary Scope Decision Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope) in scope case briefs or other written comments on scope issues.[3] Certain interested parties commented on the scope of the investigation as it appeared in the Preliminary Scope Decision Memorandum. For a summary of the product coverage comments and rebuttal responses submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.[4] *See* the scope in Appendix I to this notice.

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[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 82 FR 44562 (September 25, 2017) (*Preliminary Determination*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See*emorandum, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Preliminary Determinations'' dated November 15, 2017 (Preliminary Scope Decision Memorandum).

[4] *See* Memorandum, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from

Continued

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Verification

As provided in section 782(i) of the Act, in September 2017, the Department verified the subsidy information reported by respondents Jiangsu Hongyi Steel Pipe Co., Ltd. (Hongyi) and Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng I&E). We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.[5]

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available. As discussed in the Issues and Decision Memorandum, because the Government of the People's Republic of China (GOC) did not act to the best of its ability in responding to certain of the Department's requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(a) and (b) of the Act.[6] For further information, *see* the section ''Use of Facts Otherwise Available and Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections accepted at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination.* For a discussion of these changes, *see* the Issues and Decision Memorandum and Final Analysis Memoranda.[7]

Final Affirmative Determination of Critical Circumstances, in Part

Due to the timing of the petitioners' critical circumstance allegation and in accordance with 19 CFR 351.206(b) and (e) the Department did not make a preliminary critical circumstances determination.[8] Based on information provided by the petitioners, data placed on the record of this investigation by the mandatory respondents Hongyi and Huacheng I&E, and GTA data collected by the Department, for the final determination, the Department finds that, in accordance with 705(a)(2) of the Act, critical circumstances do not exist for individually-examined respondents Huacheng I&E and Hongyi, but that critical circumstances do exist for non-individually examined companies receiving the ''All-Others'' rate in this investigation. A discussion of the determination can be found in the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated a countervailing duty (CVD) rate for each individually-investigated producer/exporter of the subject merchandise. Consistent with section 705(c)(5)(A)(i) of the Act, we calculated an estimated ''all-others'' rate for exporters/producers not individually examined. Section 705(c)(5)(A)(i) of the Act provides that the ''all-others'' rate shall be an amount equal to the weighted average of the countervailable subsidy rates established for individually investigated exporters/producers, excluding any rates that are zero or *de minimis* or any rates determined entirely under section 776 of the Act. Neither of the mandatory respondents' rates in this final determination was zero or *de minimis* or based entirely on facts otherwise available. Accordingly, the Department calculated the all-others' rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.

Final Determination

We determine the total estimated countervailable subsidy rates to be:

Company	Subsidy rate (%)
Jiangsu Hongyi Steel Pipe Co., Ltd [9]	21.41
Zhangjiagang Huacheng Import & Export Co., Ltd [10]	18.27
All-Others	19.84

Disclosure

We intend to disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 703(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of cold-drawn mechanical tubing from the PRC, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after September 25, 2017, the date of the publication of the *Preliminary Determination* in the **Federal Register**. Furthermore, we will instruct CBP to require a cash deposit for such entries of merchandise in the amounts indicated above, pursuant to section 705(c)(1)(B)(ii) of the Act.

Section 705(c)(4) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which the suspension of liquidation was

the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Final Determination'' (Final Scope Decision Memorandum), dated concurrently with this final determination.

[5] *See* memorandum to the file, ''Verification of the Questionnaire Responses of Jiangsu Hongyi Steel Pipe Co., Ltd.,'' dated October 19, 2017; and memorandum to the file, ''Verification of the Questionnaire Responses of Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng I&E) and Its Cross-Owned Affiliates'' dated October 18, 2017.

[6] *See* Issues and Decision Memorandum at ''Use of Facts Otherwise Available and Adverse Inferences'' section.

[7] *See* Issues and Decision Memorandum; *see also* memorandum to the file, ''Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Analysis Memorandum for the Final Determination of the Countervailing Duty Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Jiangsu Hongyi Pipe Co., Ltd.,'' dated concurrently with this determination (Hongyi's Final Analysis Memorandum); and, memorandum to the file, ''Countervailing Duty Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Calculation Memorandum for the Final Determination for Zhangjiagang Huacheng Import & Export Co., Ltd.,'' dated concurrently with this determination (Huacheng's Final Analysis Memorandum).

[8] *See* the petitioners' letter, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, Italy, and the Republic of Korea—Critical Circumstances Allegation,'' dated October 23, 2017.

[9] Unchanged from *Preliminary Determination,* the Department finds the following companies to be cross-owned with Hongyi: Hongren Precision Pipe Manufacturing Co., Ltd and Changzhou Kemeng Mechanical Equipment Co., Ltd.

[10] Unchanged from *Preliminary Determination,* the Department finds the following companies to be cross-owned with Huacheng I&E: Zhangjiagang Huacheng Industry Pipe Making Corporation, Zhangjiagang Salem Fine Tubing Co., Ltd., Zhangjiagang Huacheng Investment Holding Co., Ltd., Zhangjiagang HZB Special Material Technology Co., Ltd. and Zhangjiagang Huacheng Special Materials Corporation.

first ordered. The Department finds that critical circumstances exist for all other exporters or producers of subject merchandise. In accordance with section 705(c)(4) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise from all other exporters/producers that were entered, or withdrawn from warehouse, for consumption on or after June 27, 2017, which is 90 days before the suspension of liquidation was first ordered.

U.S. International Trade Commission (ITC) Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative CVD determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, we will issue a CVD order directing CBP to assess, upon further instruction by the Department, CVDs on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders (APOs)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 4, 2017.

Gary Taverman,

Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.,* electric resistance welded, continuous welded, etc.) or seamless (*e.g.,* pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

(1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A–512, ASTM A–513 Type 3 (ASME SA513 Type 3), ASTM A–513 Type 4 (ASME SA513 Type 4), ASTM A–513 Type 5 (ASME SA513 Type 5), ASTM A–513 Type 6 (ASME SA513 Type 6), ASTM A–519 (cold-finished);

(2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;

(3) Aerospace Material Specification (AMS) AMS T–6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;

(4) United States Military Standards (MIL) MIL–T–5066 and MIL–T–6736;

(5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

(a) German Institute for Standardization (DIN) specifications DIN 2391–2, DIN 2393–2, DIN 2394–2);

(b) European Standards (EN) EN 10305–1, EN 10305–2, EN 10305–4, EN 10305–6 and European national variations on those standards (*e.g.,* British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of this investigation when it meets the physical description set forth above.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestructive testing, deburring or chamfering, remains within the scope of this investigation.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigation even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A–53;
- ASTM A–106;
- ASTM A–179 (ASME SA 179);
- ASTM A–192 (ASME SA 192);
- ASTM A–209 (ASME SA 209);
- ASTM A–210 (ASME SA 210);
- ASTM A–213 (ASME SA 213);
- ASTM A–334 (ASME SA 334);
- ASTM A–423 (ASME SA 423);
- ASTM A–498;
- ASTM A–496 (ASME SA 496);
- ASTM A–199;
- ASTM A–500;
- ASTM A–556;
- ASTM A–565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of this investigation.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
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III. Period of Investigation
IV. Final Determination of Critical Circumstances, in Part
  A. Background
  B. Legal Framework
  C. Critical Circumstances Allegation
  D. Analysis
V. Scope Comments
VI. Scope of the Investigation
VII. Application of the Countervailing Duty Law to Imports From the PRC
VIII. Subsidies Valuation
  A. Allocation Period
  B. Attribution of Subsidies
  C. Denominators
IX. Benchmarks and Discount Rates
X. Use of Facts Otherwise Available and Adverse Inferences
XI. Analysis of Programs
  A. Programs Determined To Be Countervailable
  B. Programs Determined Not To Be Used During the POI by Hongyi and Huacheng I&E
XII. Analysis of Comments
  Comment 1: The Countervailability of the Government Provision of Coking Coal and Steam Coal for Less Than Adequate Remuneration (LTAR)
  Comment 2: The Provision of Electricity for LTAR
  Comment 3: The Government Provision of Inputs for LTAR
  a. Input Producers are ''Authorities''
  b. Inputs are Specific
  c. Input Industries are Distorted (Tier-One Benchmark for Inputs for LTAR)
  Comment 4: Benchmarks for Steel Rounds/Billets, Hot-Rolled and Cold-Rolled Coiled Steel
  Comment 5: The Appropriate Benchmark for Ocean Freight
  Comment 6: External Benchmark Interest Rates for Loans
  Comment 7: GOC Policy Loans During the POI
  Comment 8: Huacheng I&E's Bank Acceptance Bills
  Comment 9: The Export Buyer's Credit Program
  Comment 10: Income Tax Deductions for R&D Expenses
  Comment 11: The GOC's Claims Regarding Verification
  Comment 12: The Department's Investigation of Uninitiated Programs
  Comment 13: Minor Corrections to the Department's Preliminary Benefit Calculation
XIII. Recommendation

[FR Doc. 2017–26608 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–029, C–570–030]

Certain Cold-Rolled Steel Flat Products From the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that imports of certain cold-rolled steel flat products (CRS), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) manufactured in the People's Republic of China (PRC), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from the PRC.

DATES: Applicable December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Victoria Cho, Tyler Weinhold, or John Drury, 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) 482–5075; (202) 482–1121; or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

Certain domestic interested parties, Steel Dynamics, Inc. (SDI), California Steel Industries (CSI), ArcelorMittal USA LLC (AMUSA), Nucor Corporation (Nucor), United States Steel Corporation, and AK Steel Corporation (collectively, the domestic parties), filed submissions [1] alleging that imports of cold-rolled steel from Vietnam made from HRS sourced from the PRC and exported to the United States as cold-rolled steel of Vietnamese origin are circumventing the *CRS Orders.*[2] In their submissions, domestic parties requested the Department initiate anti-circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the PRC-origin HRS substrate input for finishing into CRS in Vietnam and subsequent sale of that CRS to the United States constitutes circumvention of the *CRS Orders.*

On November 17, 2016, the Department published the notice of initiation of anti-circumvention inquiries on imports of CRS from Vietnam.[3] On August 29, 2017, the Department postponed the final determination of these inquiries and the revised final deadlines are now February 15, 2018.[4] For a complete description of the events that followed the initiation of these inquiries, *see* the Preliminary Decision Memorandum.[5] A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary 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 *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

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[1] *See* Domestic Parties' Letter, ''Certain Cold-Rolled Steel Flat Products from China: Request for Circumvention Ruling,'' dated September 22, 2016 (Circumvention Ruling Request September 22, 2017), and Petitioners' Letter, ''Certain Cold-Rolled Steel Flat Products from the People's Republic of China—Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930,'' dated September 27, 2016 (Circumvention Ruling Request September 27, 2017).

[2] *See Certain Cold-Rolled Steel Flat Products from Japan and the People's Republic of China: Antidumping Duty Orders,* 81 FR 45955 (July 14, 2016) (*CRS AD Order*), and *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Countervailing Duty Order,* 81 FR 45960 (July 14, 2016) (*CRS CVD Order*) (collectively, *CRS Orders*).

[3] *See Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 81057 (November 17, 2016) (*Initiation Notice*).

[4] *See* Letter, ''Certain Cold-Rolled Steel Flat Products (CRS) from the People's Republic of China (PRC): Extension of Anti-Circumvention Final Rulings,'' August 29, 2017.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determinations in the Anti-Circumvention Inquiries of Certain Cold-Rolled Steel Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Orders

The products covered by these orders are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other nonmetallic substances. For a complete description of the scope of the orders, *see* the Preliminary Decision Memorandum.[6]

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover cold-rolled steel produced in Vietnam from HRS substrate input manufactured in the PRC and subsequently exported from Vietnam to the United States (inquiry merchandise). These preliminary rulings apply to all shipments of inquiry merchandise on or after the date of the initiation of these inquiries.

Methodology

The Department is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because Vietnam and the PRC[7] are non-market economy countries, within the meaning of section 771(18) of the Act, the Department has calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act. For a full description of the methodology underlying the Department's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CRS produced in Vietnam from HRS sourced from the PRC is circumventing the *CRS Orders.* We therefore preliminarily determine that it is appropriate to include this merchandise within the *CRS Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of CRS from Vietnam produced from HRS from the PRC.

Suspension of Liquidation

As stated above, the Department has made a preliminary affirmative finding of circumvention of the *CRS Orders* by exports to the United States of CRS produced in Vietnam from PRC-origin HRS. This circumvention finding applies to CRS produced by any Vietnamese company from PRC-origin HRS substrate input. In accordance with section 19 CFR 351.225(l)(2), the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CRS produced in Vietnam from PRC-origin HRS that were entered, or withdrawn from warehouse, for consumption on or after November 4, 2016, the date of initiation of the anti-circumvention inquiry.

The suspension of liquidation instructions will remain in effect until further notice. In the underlying AD and CVD investigations, there were no cooperating respondents and, accordingly, all producers/exporters, as appropriate, of subject merchandise received the same AD rate of 199.76 and CVD rate of 256.44. Therefore, the Department is using these rates, the only rates on the records of these proceedings. Thus, the Department will instruct CBP to require AD cash deposits equal to the rate of 199.76 percent and CVD cash deposits equal to the rate 256.44 percent.

CRS produced in Vietnam from HRS that is not of PRC-origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. If an importer imports CRS from Vietnam and it claims that the CRS was not produced from HRS substrate manufactured in the PRC, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CRS produced from non-PRC origin HRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Certification (*see* Appendix IV). In addition, importers of such CRS must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a copy of an Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CRS who did not use the PRC-origin HRC substrate.

Verification

As provided in 19 CFR 351.307, the Department intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in these anti-circumvention inquiries, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC, 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

The Department, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these anti-circumvention inquiries within the *CRS Orders.* Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60

[6] *Id.*

[7] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017) citing Memorandum to Gary Taverman, ''China's Status as a Non-Market Economy,'' dated October 26, 2017. *See also Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 81 FR 24797 (October 14, 2016) (unchanged in Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2014–2015, 82 FR 18611 (April 20, 2017)).

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

days from the date of notification by the Department to provide written advice.

Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: December 5, 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 I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Voluntary Respondent Treatment
IV. Scope of the Orders
V. Scope of the Anti-Circumvention Inquiries
VI. Period of Review
VII. Surrogate Countries and Methodology for Valuing Inputs From the PRC and Processing in Vietnam
VIII. Statutory Framework
IX. Statutory Analysis
X. Country-Wide Determination
XI. Certification for Not Using PRC-Origin HRS
XII. Recommendation

Appendix II

Certification Requirements

If an importer imports certain cold-rolled steel flat products (CRS) from the Socialist Republic of Vietnam (Vietnam) and claims that the CRS was not produced from hot-rolled steel substrate (substrate) manufactured in the People's Republic of China (PRC), the importer is required to complete and maintain the importer certification attached hereto as Appendix III. The importer and exporter are required to maintain the exporter certification attached hereto as Appendix IV. The importer certification must be completed, signed, and dated at the time of the entry of the CRS product. The exporter certification must be completed, signed, and dated at the time of shipment of the relevant entries. For shipments and/or entries on or after November 4, 2016, but before the publication of this notice in the **Federal Register**, for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the **Federal Register**. The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation, to the Department and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by the Department and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, the Department intends to instruct CBP to suspend, under the PRC CRS orders (A–570–029, C–570–030), all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department of Commerce. Entries suspended under A–570–029 and C–570–030 will be liquidated pursuant to applicable administrative reviews of the PRC orders or through the automatic liquidation process.

Appendix III

Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation of the cold-rolled steel flat products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification;
- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in the People's Republic of China (PRC):
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (the Department);
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or the Department;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or the Department;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
  - suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
  - the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at the time of entry;
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature _____

_____
NAME OF COMPANY OFFICIAL

_____
TITLE

_____
DATE

Appendix IV

Exporter Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the cold-rolled steel flat products identified below.
- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in the People's Republic of China (PRC):
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer at the time of shipment;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (the Department);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or the Department;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

○ suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

○ the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by the Department;

• This certification was completed at or prior to the time of shipment;

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature _____

NAME OF COMPANY OFFICIAL

TITLE

DATE

[FR Doc. 2017–26607 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Marine Sanctuary Permits

AGENCY: National Oceanic and Atmospheric Administration, 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 9, 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 *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kate Spidalieri (*Kate.Spidalieri@noaa.gov;* 240–533–0679).

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

National marine sanctuary regulations at 15 CFR part 922 list specific activities that are prohibited in national marine sanctuaries. These regulations also state that otherwise prohibited activities are permissible if a permit is issued by the Office of National Marine Sanctuaries (ONMS). Persons desiring a permit must submit an application, and anyone obtaining a permit is generally required to submit one or more reports on the activity allowed under the permit.

The recordkeeping and reporting requirements at 15 CFR part 922 form the basis for this collection of information. This information is required by ONMS to protect and manage sanctuary resources as required by the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*).

II. Method of Collection

Depending on the permit being requested, various applications, reports, and telephone calls may be required from applicants. Applications and reports can be submitted via email, fax, or traditional mail. Applicants are encouraged to use electronic means to apply for permits and submit reports whenever possible.

III. Data

OMB Control Number: 0648–0141.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; Federal government; state, local, or tribal government.

Estimated Number of Respondents: 555.

Estimated Time per Response: General permits, 1 hour and 30 minutes; special use permits, 8 hours; historical resources permits, 13 hours; baitfish permits and lionfish removal permits, 5 minutes; permit amendments and certifications, 30 minutes; voluntary registrations, 15 minutes; appeals, 24 hours; Tortugas access permits, 6 minutes.

Estimated Total Annual Burden Hours: 2,095.

Estimated Total Annual Cost to Public: $1,080.00 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 6, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–26664 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF836

International Affairs; U.S. Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area

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

ACTION: Notification of U.S. fishing opportunities.

SUMMARY: We are announcing 2018 fishing opportunities in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area. This action is necessary to make fishing privileges in the NAFO Regulatory Area available on an equitable basis to the extent possible. The intended effect of this notice is to alert U.S. fishing vessels of the NAFO fishing opportunities, to relay the available quotas available to U.S. participants, and to outline the process and requirements for vessels to apply to participate in the 2018 NAFO fishery.

DATES: Valid from January 1, 2018, through December 31, 2018. Expressions of interest regarding fishing opportunities in NAFO will be accepted through December 26, 2017.

ADDRESSES: Expressions of interest regarding U.S. fishing opportunities in NAFO should be made in writing to John K. Bullard, U.S. Commissioner to

NAFO, NMFS Greater Atlantic Regional Fisheries Office at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–281–9315, email: *John.Bullard@noaa.gov*).

Information relating to chartering vessels of another NAFO Contracting Party, transferring NAFO fishing opportunities to or from another NAFO Contracting Party, or U.S. participation in NAFO is available from Patrick E. Moran in the NMFS Office of International Affairs and Seafood Inspection at 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301–427–8370, fax: 301–713–2313, email: *Pat.Moran@noaa.gov*).

Additional information about NAFO fishing opportunities, NAFO Conservation and Enforcement Measures (CEM), and the High Seas Fishing Compliance Act (HSFCA) Permit required for NAFO participation is available from Shannah Jaburek, in the NMFS Greater Atlantic Regional Fisheries Office at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–282–8456, fax: 978–281–9135, email: *Shannah.Jaburek@noaa.gov*) and online from NAFO at *https://www.nafo.int*.

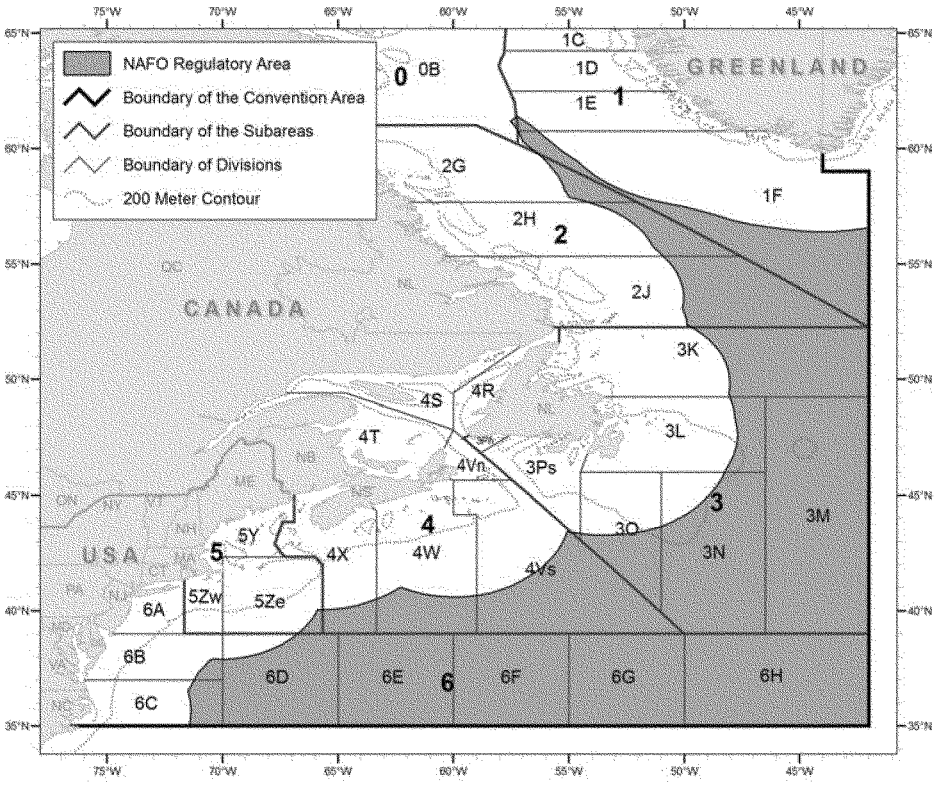
FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, (978) 282–8456.

SUPPLEMENTARY INFORMATION:

General NAFO Background

The United States is a Contracting Party to the Northwest Atlantic Fisheries Organization or NAFO. NAFO is an intergovernmental fisheries science and management body whose convention applies to most fishery resources in international waters of the Northwest Atlantic, except salmon, tunas/marlins, whales, and sedentary species such as shellfish. Currently, NAFO has 12 contracting parties from North America, Europe, Asia, and the Caribbean. NAFO's Fisheries Commission is responsible for the management and conservation of the fishery resources in the Regulatory Area (waters outside the Exclusive Economic Zones (EEZs)). Figure 1 shows the NAFO Regulatory Area.

Figure 1. NAFO Convention Area including Statistical Subareas, Divisions, and Subdivisions.



As a Contracting Party within NAFO, the United States may be allocated catch quotas or effort allocations for certain species in specific areas within the NAFO Regulatory Area and may participate in fisheries for other species for which we have not received a specific quota. For most stocks for which the United States does not receive a specific allocation, an open allocation, known as the ''Others'' allocation under the Convention, is shared access between all NAFO Contracting Parties.

Additional information on NAFO can be found online at *https://www.nafo.int/About-us*. The 2018 NAFO Conservation and Enforcement Measures (CEM) that specify the fishery regulations, Total Allowable Catches (TACs or ''quotas'') and other information about the fishery program are available online at: *https://www.nafo.int/Fisheries/Conservation*.

This notice announces the fishing opportunities available to U.S. vessels in NAFO regulatory waters, including specific 2018 stocks for which the United States has an allocation under NAFO, and fishing opportunities under the 'Other' NAFO allocations. This notice also outlines the application process and other requirements for U.S. vessels that wish to participate in the 2018 NAFO fisheries.

NAFO Fishing Opportunities Available to U.S. Fishing Vessels

The principal species managed by NAFO are Atlantic cod, yellowtail and witch flounders, Acadian redfish, American plaice, Greenland halibut, white hake, capelin, shrimp, skates, and *Illex* squid. NAFO specifies conservation measures for fisheries on these species occurring in its Regulatory Area, including TACs for these managed species that are allocated among NAFO Contracting Parties. The United States received quota allocations at the 2017 NAFO Annual Meeting for two stocks to be fished during 2018. The species, location by NAFO subarea, and allocation (in metric tons (mt)) of these 2018 U.S. fishing opportunities are as follows: Redfish in Division 3M, 69 mt; and *Illex* Squid in Subareas 3 & 4, 453 mt. In addition, the United States expects a transfer of 1,000 mt of NAFO Division 3LNO yellowtail flounder from Canada's 2018 quota allocation consistent with a 2008 bilateral arrangement between the two countries.

The TACs that may be available to U.S. vessels for stocks where the United States has not been allocated quota (*i.e.,* the ''Others'' allocation in Annex I.A of the CEM) are as follows:

TABLE 1—2018 NAFO ''OTHERS'' ALLOCATIONS

Species	NAFO Division	Others Quota
Cod	3M	45
Redfish	3LN	85
	3M	124
	3O	100
Yellowtail Flounder	3LNO	85
Witch Flounder	3NO	11
White Hake	3NO	59
Skates	3LNO	258
Illex squid	Squid 3_4 (Sub-Areas 3+4).	794

Note that the United States shares these allocations with other NAFO Contracting Parties, and access is on a first come, first served basis. Directed fishing is prohibited by NAFO when the ''Others'' quota for a particular stock has been fully harvested.

Additional directed quota for these and other stocks managed within the NAFO Regulatory Area could be made available to U.S. vessels through industry-initiated chartering arrangements or government-to-government transfers of quota from other NAFO Contracting Parties.

U.S. vessels participating in NAFO may also retain bycatch of NAFO managed species to the following maximum amounts as outlined in Article 6 of the 2018 CEM. The percentage, by weight, is calculated as a percent of each stock of the total catch of species listed in Annex I.A (*i.e.,* the NAFO managed stocks previously listed) retained onboard from the applicable division at the time of inspection, based on logbook information:

1. Cod, Division 3M: 1,250 kg or 5 percent, whichever is more;
2. Witch Flounder, Division 3M: 1,250 kg or 5 percent, whichever is more;
3. Redfish, Division 3LN: 1,250 kg or 5 percent, whichever is more;
4. Cod, Division 3NO: 1,000 kg or 4 percent, whichever is more;
5. For all other Annex I.A stocks where the U.S. has no specific quota the bycatch limit is, 2,500 kg or 10 percent unless a ban on fishing applies or the quota for the stock has been fully utilized. If the fishery for the stock is closed or a retention ban applies, the permitted bycatch limit is 1,250 kg or 5 percent; and
6. For the directed yellowtail flounder fishery in Divisions 3LNO (where the United States has a 1,000 mt yellowtail flounder allocation in 2018) vessels may retain 15 percent of American plaice.

Opportunities to fish for species not listed above (*i.e.,* species listed in Annex I.A of the 2018 NAFO CEM and non-allocated on non-regulated species), but occurring within the NAFO Regulatory Area, may also be available. U.S. fishermen interested in fishing for these other species should contact the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**) for additional information. Authorization to fish for such species will include permit-related conditions or restrictions, including but not limited to, minimum size requirements, bycatch-related measures, and catch limits. Any such conditions or restrictions will be designed to ensure the optimum utilization, long-term sustainability, and rational management and conservation of fishery resources in the NAFO Regulatory Area, consistent with the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries as well as the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, which has been adopted by all NAFO Contracting Parties.

Applying for These Fishing Opportunities

Expressions of interest to fish for any or all of the 2018 U.S. fishing opportunities in NAFO described above will be considered from all U.S. fishing interests (*e.g.,* vessel owners, processors, agents, others). Applicants are urged to carefully review and thoroughly address the application requirements and selection criteria as detailed below. Expressions of interest should be directed in writing to Regional Administrator John Bullard (see **ADDRESSES**).

Information Required in an Application Letter

Expressions of interest should include a detailed description of anticipated fishing operations in 2018. Descriptions should include, at a minimum:

- Intended target species;
- Proposed dates of fishing operations;
- Vessel(s) to be used to harvest fish, including the name, registration, and home port of the intended harvesting vessel(s);
- The number of fishing personnel and their nationality involved in vessel operations;
- Intended landing port or ports; including for ports outside of the United States, whether or not the product will be shipped to the United States for processing;
- Processing facilities to be used;
- Target market for harvested fish; and,
- Evidence demonstrating the ability of the applicant to successfully prosecute fishing operations in the NAFO Regulatory Area, in accordance with NAFO management measures. This may include descriptions of previously successful NAFO or domestic fisheries participation.

Note that applicant U.S. vessels must possess or be eligible to receive a valid High Seas Fishing Compliance Act (HSFCA) permit. HSFCA permits are available from the NMFS Greater Atlantic Regional Fisheries Office. Information regarding other requirements for fishing in the NAFO Regulatory Area is detailed below and is also available from the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**).

U.S. applicants wishing to harvest U.S. allocations using a vessel from another NAFO Contracting Party, or hoping to enter a chartering arrangement with a vessel from another NAFO Contracting Party, should see below for details on U.S. and NAFO requirements for such activities. If you have further questions regarding what information is required in an expression of interest, please contact Patrick Moran (see **ADDRESSES**).

Criteria Used in Identifying Successful Applicants

Applicants demonstrating the greatest benefits to the United States through their intended operations will be most successful. Such benefits may include:

• The use of U.S vessels and crew to harvest fish in the NAFO Regulatory Area;
• Detailed, positive impacts on U.S. employment as a result of the fishing, transport, or processing operations;
• Use of U.S. processing facilities;
• Transport, marketing, and sales of product within the United States;
• Other ancillary, demonstrable benefits to U.S. businesses as a result of the fishing operation; and
• Documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry.

Other factors we may consider include but are not limited to: A documented history of successful fishing operations in NAFO or other similar fisheries; the history of compliance by the vessel with the NAFO CEM or other domestic and international regulatory requirements, including potential disqualification of an applicant with repeated compliance issues; and, for those applicants without NAFO or other international fishery history, a description of demonstrated harvest, processing, marketing, and regulatory compliance within domestic fisheries.

To ensure equitable access by U.S. fishing interests, we may provide additional guidance or procedures, or we may issue regulations designed to allocate fishing interests to one or more U.S. applicants from among qualified applicants. After reviewing all requests for allocations submitted, we may also decide not to grant any allocations if it is determined that no requests adequately meet the criteria described in this notice.

Notification of Selected Vessels in the 2018 NAFO Fisheries

We will provide written responses to all applicants notifying them of their application status and, as needed for successful applicants, allocation awards will be made as quickly as possible so that we may notify NAFO and take other necessary actions to facilitate operations in the regulatory area by U.S. fishing interests. Successful applicants will receive additional information from us on permit conditions and applicable regulations before starting 2018 fishing operations.

Mid-Season Allocation Adjustments

In the event that an approved U.S. entity does not, is not able to, or is not expected to fish an allocation, or part thereof, awarded to them, NMFS may reallocate to other approved U.S. entities. If requested, approved U.S. entities must provide updated fishing plans and/or schedules. A U.S. entity may not consolidate or transfer allocations without prior approval from NMFS.

Chartering a Vessel To Fish Available U.S. Allocations

Under the bilateral arrangement with Canada, the United States may enter into a chartering (or other) arrangement with a Canadian vessel to harvest the transferred yellowtail flounder. For other NAFO-regulated species listed in Annexes I.A and I.B, the United States may enter into a chartering arrangement with a vessel from any other NAFO Contracting Party. Additionally, any U.S. vessel or fishing operation may enter into a chartering arrangement with any other vessel or business from a NAFO Contracting Party. The United States and the other Contracting Party involved in a chartering arrangement must agree to the charter, and the NAFO Executive Secretary must be advised of the chartering arrangement before the commencement of any charter fishing operations. Any U.S. vessel or fishing operation interested in making use of the chartering provisions of NAFO must provide at least the following information: The name and registration number of the U.S. vessel; a copy of the charter agreement; a detailed fishing plan; a written letter of consent from the applicable NAFO Contracting Party; the date from which the vessel is authorized to commence fishing; and the duration of the charter (not to exceed six months).

Expressions of interest using another NAFO Contracting Party vessel under charter should be accompanied by a detailed description of anticipated benefits to the United States, as described above. Additional detail on chartering arrangements can be found in Article 26 of the CEM (*https://www.nafo.int/Fisheries/Conservation*).

Any vessel from another Contracting Party wishing to enter into a chartering arrangement with the United States must be in full current compliance with the requirements outlined in the NAFO Convention and CEM. These requirements include, but are not limited to, submission of the following reports to the NAFO Executive Secretary:
• Notification that the vessel is authorized by its flag state to fish within the NAFO Regulatory Area during 2018;
• Provisional monthly catch reports for all vessels of that NAFO Contracting Party operating in the NAFO Regulatory Area;
• Daily catch reports for each day fished by the subject vessel within the Regulatory Area;
• Observer reports within 30 days following the completion of a fishing trip; and
• An annual statement of actions taken by its flag state to comply with the NAFO Convention.

The United States may also consider the vessel's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before authorizing the chartering arrangement.

Transfer of U.S. Quota Allocations to Another NAFO Party

Under NAFO rules in effect for 2018, the United States may transfer fishing opportunities by mutual agreement with another NAFO Contracting Party and with prior notification to the NAFO Executive Secretary. An applicant may request to arrange for any of the previously described U.S. opportunities to be transferred to another NAFO party, although such applications will likely be given lesser priority than those that involve more direct harvesting or processing by U.S. entities. Applications to arrange for a transfer of U.S. fishing opportunities should contain a letter of consent from the receiving NAFO Contracting Party, and should also be accompanied by a detailed description of anticipated benefits to the United States. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before entering agreeing to a transfer.

Receiving a Transfer of NAFO Quota Allocations From Another NAFO Party

Under NAFO rules in effect for 2018, the United States may receive transfers of additional fishing opportunities from other NAFO Contracting Parties. We are required to provide a letter consenting to such a transfer and must provide notice to the NAFO Executive Secretary. In the event that an applicant is able to arrange for the transfer of additional fishing opportunities from another NAFO Contracting Party to the United States, the U.S. may agree to facilitate such a transfer. However, there is no guarantee that if an applicant has facilitated the transfer of quota from another Contracting Party to the United States, such applicant will receive authorization to fish for such quota. If quota is transferred to the United States, we may need to solicit new applications for the use of such quota. All applicable NAFO requirements for transfers must be met. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's

previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before agreeing to accept a transfer. Any fishing quota or other harvesting opportunities received via this type of transfer are subject to all U.S and NAFO rules as detailed below.

For more details on NAFO requirements for chartering and transferring NAFO allocations, contact Patrick Moran (see **ADDRESSES**).

Fishing in the NAFO Regulatory Area

U.S. applicant vessels must be in possession of, or obtain, a valid HSFCA permit, which is available from the NMFS Greater Atlantic Regional Fisheries Office. All permitted vessels must comply with any conditions of this permit and all applicable provisions of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries and the CEM. We reserve the right to impose additional permit conditions that ensure compliance with the NAFO Convention and the CEM, the Magnuson-Stevens Fishery Conservation and Management Act and any other applicable law.

The CEM provisions include, but are not limited to:

- Maintaining a fishing logbook with NAFO-designated entries (Annex II.A and Article 28);
- Adhering to NAFO hail system requirements (Annexes II.D and II.F; Article 28; Article 30 part B);
- Carrying an approved onboard observer for each trip consistent with requirements of Article 30 part A;
- Maintaining and using a functioning, autonomous vessel monitoring system authorized by issuance of the HSFCA permit as required by Articles 29 and 30; and
- Complying with all relevant NAFO CEM requirements, including minimum fish sizes, gear, bycatch retention, and per-tow move on provisions for exceeding bycatch limits in any one haul/set.

Further details regarding U.S. and NAFO requirements are available from the NMFS Greater Atlantic Regional Fisheries Office, and can also be found in the 2018 NAFO CEM on the Internet (*https://www.nafo.int/Fisheries/Conservation*).

Vessels issued valid HSFCA permits under 50 CFR part 300 are exempt from certain domestic fisheries regulations governing fisheries in the Northeast United States found in 50 CFR 648. Specifically, vessels are exempt from the Northeast multispecies and monkfish permit, mesh size, effort-control, and possession limit restrictions (§§ 648.4, 648.80, 648.82, 648.86, 648.87, 648.91, 648.92, and 648.94), while transiting the U.S. exclusive economic zone with multispecies and/or monkfish on board the vessel, or landing multispecies and/or monkfish in U.S. ports that were caught while fishing in the NAFO Regulatory Area. These exemptions are conditional on the following requirements: The vessel operator has a letter of authorization issued by the Regional Administrator on board the vessel; for the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the U.S. EEZ; when transiting the U.S. EEZ, all gear is properly stowed and not available for immediate use as defined under § 648.2; and the vessel operator complies with the provisions, conditions, and restrictions specified on the HSFCA permit and all NAFO CEM while fishing in the NAFO Regulatory Area.

Dated: December 6, 2017.

John H. Henderschedt,

Director, NOAA Fisheries Office of International Affairs and Seafood Inspection.

[FR Doc. 2017–26665 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Application Forms for Membership on a National Marine Sanctuary Advisory Council

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 9, 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 *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kate Spidalieri (*Kate.Spidalieri@noaa.gov;* 240–533–0679).

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a revision and extension of a currently approved information collection.

Section 315 of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1445a) allows the Secretary of Commerce to establish one or more advisory councils to provide advice to the Secretary regarding the designation and management of national marine sanctuaries. Executive Order 13178 similarly established a Coral Reef Ecosystem Reserve Council pursuant to the NMSA for the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve. Councils are individually chartered for each site to meet its specific needs. Once an advisory council has been chartered, a sanctuary superintendent starts a process to recruit members for that council by providing notice to the public and requesting interested parties to apply for the available seat(s) (*e.g.,* Research, Education) and position(s) (*i.e.,* council member or alternate). The information obtained through this application process will be used to determine the qualifications of the applicant for membership on the advisory council.

Two application forms are currently associated with this information collection: (a) National Marine Sanctuary Advisory Council Application form; and (b) National Marine Sanctuary Advisory Council Youth Seat Application form. These application forms are currently being revised to ensure consistency between forms, as well as clarify the information and supplemental materials to be submitted by applicants. Application form instructions will specify requirements imposed upon the agency when reviewing applicants as potential council members or alternates, including the need to assess potential conflicts of interest (or other issues) and the applicant's status as a federally registered lobbyist. Specific questions posed to applicants will be reordered, reworded and, at times, condensed to improve the organization of applicant responses and, thereby, simplify the applicant review process.

II. Method of Collection

Complete applications may be submitted electronically via email (with attachments), by mail, or by facsimile transmission.

III. Data

OMB Control Number: 0648–0397.

Form Number: None.

Type of Review: Regular submission (revision and extension of a currently approved collection).

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 594.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 594 hours.

Estimated Total Annual Cost to Public: $1,188.00.

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 6, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–26663 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–NK–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: Billfish Certificate of Eligibility.

OMB Control Number: 0648–0216.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 200.

Average Hours per Response: 20 minutes for initial completion of certificate and 2 minutes for subsequent billfish purchase recordkeeping.

Burden Hours: 43.

Needs and Uses: This request is for an extension of a currently approved information collection.

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' (U.S.) obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). A Certificate of Eligibility (COE) for Billfishes is required under 50 CFR part 635 to accompany all billfish, except for a billfish landed in a Pacific state and remaining in the state of landing. This documentation certifies that the accompanying billfish was not harvested from the applicable Atlantic Ocean management unit (described on the NOAA sample certificate), and identifies the vessel landing the billfish, the vessel's homeport, the port of offloading, and the date of offloading. The certificate must accompany the billfish to any dealer or processor who subsequently receives or possesses the billfish. A standard certificate format is not currently required to document the necessary information, provided it contains all of the information required. The extension of this collection is necessary to implement the Consolidated Highly Migratory Species Fishery Management Plan, which contains conservation and management measures that limit the Atlantic billfish fishery to a recreational fishery.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

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 6, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–26662 Filed 12–8–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Extension of the Comprehensive Autism Care Demonstration for TRICARE Eligible Beneficiaries Diagnosed With Autism Spectrum Disorder

AGENCY: Department of Defense.

ACTION: Notice of an extension of a comprehensive demonstration project for all Applied Behavior Analysis (ABA) services, including the tiered-model of ABA, for all TRICARE eligible beneficiaries diagnosed with Autism Spectrum Disorder (ASD).

SUMMARY: This notice provides a five-year extension to the Military Health System's demonstration project entitled Comprehensive Autism Care Demonstration (''Autism Care Demonstration''). The initial purpose of the Autism Care Demonstration (ACD) was to further analyze and evaluate the appropriateness of the ABA services tiered delivery model under TRICARE (the medical benefit) in light of current and anticipated Behavior Analyst Certification Board guidelines. Based on the agency's experience in administering ABA services under the ACD, including engagement with beneficiaries, providers, advocates, associations, and other payers, much more analysis and experience is required in order to determine the appropriate characterization of ABA services as a medical treatment, or other modalities, under the TRICARE program coverage requirements—to include further research and evaluation of the results, whether Board Certified Behavior Analysts may appropriately be recognized and treated as independent TRICARE authorized providers of a proven medical benefit, and what authorities are required to add ABA services as a permanent benefit under the TRICARE program—whether as a proven medical benefit or otherwise.

DATES: The demonstration will continue through December 31, 2023.

ADDRESSES: Defense Health Agency, Health Plan Operations, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042.

FOR FURTHER INFORMATION CONTACT: For questions pertaining to this

demonstration project, please contact Mr. Richard Hart at (703) 681–0047.

SUPPLEMENTARY INFORMATION: Under the demonstration, the Department implemented a provider model that allows reimbursement for ABA services rendered by providers who are not otherwise eligible for reimbursement. Additionally, since the implementation of the demonstration, Congress directed the agency to add outcome measures as a requirement to the program. Through revisions and accomodations to obtain achievable information, these outcome measures are aimed at assessing individual progress for each beneficiary, and provide limited utility to describe the population, and the program, as a whole. To acquire additional research results that are essential to evaluating the nature and efficacy of ABA services, the appropriate characterization of ABA providers, and the optimum means to administer coverage of ABA services under TRICARE, the agency is working with the Congressionally Directed Medical Research Program (CDMRP) to award a contract to a research group to analyze the TRICARE ACD participants' outcome measures, particularly assessing their responses to ABA service delivery as a total population. The CDMRP research study will be a descriptive analysis that has the potential to be the largest sample population of ABA services for the diagnosis of ASD in the entire body of research literature, therefore contributing significantly to the understanding of the efficacy of ABA service delivery. By extending the demonstration, the government will not only gain information about what TRICARE beneficiaries are receiving under the ACD and respective outcomes, the government will also gain greater insight and understanding of ASD in the TRICARE population, ABA services being delivered to TRICARE beneficiaries, and outcomes data.

Additionally, as a next phase to improve the ABA services benefit, the Department will consult with stakeholders and utilize best practices identified in commercial and Medicaid plans as a guide to explore the potential for a single, nationwide contract to manage ABA service delivery under the ongoing authority of the ACD. This reflects a beneficiary-centric approach with many advantages that will provide improved coordination of benefits nationwide leading to improved consistency, quality, and beneficiary experience.

A determination of the future of ABA under TRICARE and the efficacy of ABA services as a medical benefit would be premature at this point for the reasons stated above. It is therefore necessary for the Department to extend the ACD beyond its December 31, 2018, expiration in order to implement this multi-track approach. This approach will advance the comprehensive evaluation of ABA services for TRICARE coverage for the duration of the CDRMP research study under a single benefit contract. This extension will also ensure continuity of care for beneficiaries currently receiving ABA services, and for those beneficiaries who will be diagnosed with ASD in the future, for the duration of these ongoing initiatives and a reasonable time thereafter for analysis and appropriate TRICARE program changes, to include seeking any additional authorities that may be required.

On June 16, 2014, the Department of Defense published a notice in the **Federal Register** (FR) (79 FR 34291), as amended by 80 FR 30664 (May 29, 2015), of a TRICARE demonstration to further analyze and evaluate the appropriateness of the ABA tiered delivery model under TRICARE. The initial purpose of the demonstration was to determine the appropriate provider qualifications for the proper diagnosis of ASD and for the provision of ABA services, assess the feasibility and advisability of establishing a beneficiary cost share for ABA services for the treatment of ASD, and develop more efficient and appropriate means of increasing access to and delivering of ABA services under TRICARE while creating a viable economic model and maintaining administrative simplicity. The ACD was implemented on July 25, 2014, and expires December 31, 2018.

ABA services are currently provided through the ACD and managed by the existing TRICARE regional managed care support contractors. This approach enabled TRICARE to quickly expand access to ABA services for over 14,000 children diagnosed with ASD and manage a comprehensive ABA benefit program. However, in efforts to manage ABA services similar to the TRICARE Basic medical benefit, many rules have been modified, or exceptions have been made, such as diagnosis and referral procedures, ABA provider qualifications and credentialing, safety and quality management reviews, and reimbursement rate methodology. Additionally, ABA services may involve a lengthy period of care and as families move or transfer across TRICARE regions, many experience inconsistencies in how the ABA services benefit is managed between TRICARE contracts. Based on lessons learned, DHA now seeks to improve ABA services delivery with a more unified approach to reduce variation and ensure ABA services are directed to beneficiaries in a manner that maximizes clinically necessary benefits to each child with minimal disruptions.

The Department is committed to ensuring all TRICARE-eligible beneficiaries diagnosed with ASD reach their maximum potential, and that all treatment provided supports this goal. The need for effective treatment for the diagnosis of ASD is unquestioned, and while there is need for more scientific evidence, ABA remains the most widely accepted intervention. Therefore, the Department is pursuing a more effective method of delivering and validating the effectiveness of these services. The Department is exploring the potential for a single, nationwide contract, administered by a private sector health care company, with specialized experience and expertise in providing ABA services, will significantly improve the provision of ABA services to military beneficiaries diagnosed with ASD.

Consequently, the Department has determined that extension of the demonstration is both in the best interest of TRICARE beneficiaries diagnosed with ASD, and necessary to fully evaluate the effectiveness of the delivery model employed by the demonstration while putting in-place a nationwide contract. This extension will determine whether the ACD meets its stated purpose and provide the Department with consistent and reliable information necessary to make informed decisions regarding the provision of the ABA services benefit. This extension will allow the Department to make a formal decision regarding the use of that delivery model in the long-term. The demonstration continues to be authorized by Title 10, United States Code, Section 1092.

Dated: December 5, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–26567 Filed 12–8–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–58]

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 17–58 with attached Policy Justification and Sensitivity of Technology.

Dated: December 5, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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

NOV 29 2017

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. 17-58, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Singapore for defense articles and services estimated to cost $381 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

Transmittal No. 17–58

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 Singapore

(ii) *Total Estimated Value:*

Major Defense Equipment *	$13 million
Other	$402 million
Total	$415 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Follow-on support and services related to Singapore's Continental United States (CONUS) F–15 detachment PEACE CARVIN V.

Major Defense Equipment (MDE):

Forty (40) GBU–10 Paveway II Laser Guided Bomb (LGB) Units, consisting of: MXU–651B/B Air Foil Groups (AFG), MAU–209C/B or MAU–169L/B Computer Control Groups (CCG), MK–84 or BLU–117B/B Bomb Bodies

Eighty four (84) GBU–12 Paveway II LGB Units, consisting of: MXU–650C/B AFG, MAU–209C/B or MAU–168L/B CCGs, MK–82 or BLU–111B/B Bomb Bodies

Sixty (60) FMU–152 or FMU–139D/B Fuzes

Non-MDE: Also included are AIM–120 Telemetry Kits; target drones; High-Bandwidth Compact Telemetry Module kits; exercise participation support; weapons, Electronic Combat International Security Assistance Program (ECISAP), and systems support; medical support; vehicle and ferry support; airlift and aerial refueling; individual equipment; maintenance, spare and repair parts; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor, logistics, and technical support services; and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (SN–D–NAG)

(v) *Prior Related Cases, if any:* SN–D–NDA

(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 29, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Singapore—Follow-On Support for PEACE CARVIN V (F–15 Training Detachment)

The Government of Singapore has requested to purchase forty (40) GBU–10 Paveway II Laser Guided Bomb (LGB) units, consisting of: MXU–651B/B Air Foil Groups (AFG), MAU–209C/B or MAU–169L/B Computer Control Groups (CCG), MK–84 or BLU–117B/B bomb bodies; eighty four (84) GBU–12 Paveway II LGB units, consisting of: MXU–650C/B AFG, MAU–209C/B or MAU–168L/B CCGs, MK–82 or BLU–111B/B bomb bodies; and sixty (60) FMU–152 or FMU–139D/B fuzes. Also included are AIM–120 Telemetry Kits; target drones; High-Bandwidth Compact Telemetry Module kits; exercise participation support; weapons, Electronic Combat International Security Assistance Program (ECISAP), and systems support; medical support; vehicle and ferry support; airlift and aerial refueling; individual equipment; maintenance, spare and repair parts; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor, logistics, and technical support services; and other related elements of logistical and program support. The estimated cost is $415 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 critical regional partner that has been, and continues to be, an important force for economic progress in Southeast Asia.

This potential sale will continue to improve Singapore's ability to develop mission-ready and experienced pilots to support its F–15 aircraft inventory. The well-established pilot proficiency training program at Mountain Home Air Force Base will support professional interaction and enhance operational interoperability with U.S. Forces. Singapore will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

There is no prime contractor involved in this proposed sale. Manpower support will be determined through competition with defense articles anticipated to come from U.S. stocks, as needed. Sources of supply will award contracts when necessary to provide the defense articles if items are not available from U.S. stock or are considered long lead-time away. 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 Singapore.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–58

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. This potential sale will involve the release of sensitive technology to the Government of Singapore, including Paveway II (PWII) Laser Guided Bombs (LGB) GBU–10 and –12. The PWII LGBUs have an overall export classification of CONFIDENTIAL. The related subcomponents: MXU–209 C/B or MAU–169 L/B control and guidance kits, FMU–152 or FMU–139D/B fuzes, MK–82 or BLU–111 B/B bomb bodies, and MK–84 or BLU–117 B/B bomb bodies are UNCLASSIFIED.

2. The PWII LGB, is a maneuverable, free-fall weapon that guides to a spot of laser energy reflected off of the target. The LGB is delivered like a normal general purpose (GP) bomb and the semi-active guidance corrects for many of the normal errors inherent in any delivery system. Laser designation for the LGB can be provided by a variety of laser target markers or designators. An LGB consists of a Computer Control Group (CCG) that is not warhead specific and warhead specific Air Foil Group (AFG) that attaches to the nose and tail of a GP bomb body. The PWII can use either the FMU–152 or FMU–139D/B fuzes. Singapore currently has FMU–152 fuzes available and will be purchasing additional compatible fuzes to support new munitions requirements.

a. GBU–10 is a 2,000lb (MK–84 or BLU–117 B/B) GP bomb body fitted with the MXU–651 AFG, and MAU–209C/B or MAU–169 L/B CCG to guide to its laser designated target.

b. GBU–12 is a 500lb (MK–82 or BLU–111 B/B) GP bomb body fitted with the MXU–650 AFG, and MAU–209C/B or MAU–168L/B CCGs to guide to its laser designated target.

3. FMU–152 fuzes are a multifunction, multiple delay fuze system with hardened target capabilities that provide arming and fuzing functions for general purpose and penetrating, unitary warheads. The fuze can set or reset during munitions buildup, aircraft loading, ground

servicing, or during flight from the cockpit. The system includes the fuze, closure ring, FZU–63 initiator, and power cable. The hardware is UNCLASSIFIED.

4. AIM–120 Telemetry Kits Non-Development Item/Airborne Instrument Units (NDI/AIU) hardware are UNCLASSIFIED. The NDU/AIU includes a telemetry transmitter, a flight termination system, a C-band beacon and upper S-band capability to include antenna. The NDI/AIU will be used for Singapore's participation in Continental United States (CONUS) based exercises and shall not be released, transferred, or exported to Singapore. All data shall only be collected, transmitted or reviewed by qualified U.S. personnel.

5. The High-Bandwidth Compact Telemetry Modules (HCTM) and Telemetry Cable Kits hardware are UNCLASSIFIED. HCTM are used for Joint Direct Attack Munition integration, developmental, or operational testing; and will be used for Singapore's participation in Continental United States (CONUS) based exercises and shall not be released, transferred, or exported to Singapore. All data shall only be collected, transmitted or reviewed by qualified U.S. personnel.

6. 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.

7. A determination has been made that Singapore 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.

8. All defense articles and services listed on this transmittal are authorized for release and export to the Government of Singapore.

[FR Doc. 2017–26566 Filed 12–8–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–43–000]

Notice of Petition for Declaratory Order; Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company

Take notice that on November 28, 2017, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively, Southern Companies), filed a petition for declaratory order and request to hold proceedings in abeyance. The filing seeks clarification regarding whether Southern Companies' Open Access Transmission Tariff provides the flexibility to allow for a ratemaking adjustment so as to avoid a potential violation of normalization requirements, and the filing is made contingent upon, and requests that this proceeding be held in abeyance pending the receipt of, a Private Letter Ruling being sought from the Internal Revenue Service regarding the potential normalization violation.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioners.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on December 28, 2017.

Dated: December 5, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26652 Filed 12–8–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–1–000]

Commission Information Collection Activities (FERC–598); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–598 (Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status).

DATES: Comments on the collection of information are due February 9, 2018.

ADDRESSES: You may submit comments (identified by Docket No. IC18–1–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–598, Self-Certification for Entities Seeking Exempt Wholesale Generator Status or Foreign Utility Company Status.

OMB Control No.: 1902–0166.

Type of Request: Three-year extension of the FERC–598 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the data in the FERC–598 information collection to implement the statutory provisions of Title XII, subtitle F of the Energy Policy Act of 2005 (EPAct 2005).[1]

EPAct 2005 repealed the Public Utility Holding Company Act of 1935 (PUHCA 1935),[2] and adopted in its place the Public Utility Holding Company Act of 2005 (PUHCA 2005).[3] While providing for the Commission's regulation of holding companies, PUHCA 2005 also provided an exemption from such regulation for those holding companies that are subject to Commission regulation as holding companies solely due to their holding exempt wholesale generators (EWG) and foreign utility companies (FUCO).[4] To carry out this statutory directive, the Commission amended its regulations (in Order No. 667 [5]) to, among other things, add procedures for not only defining what entities would qualify as EWGs and FUCOs, but also the self-certification by entities seeking EWG and FUCO status, coupled with the self-certification of the exemption of their holding companies, in turn, from Commission regulation.[6] This self-certification for EWGs and FUCOs is similar to the process available to entities that seek qualifying facility status.[7]

An EWG is defined as ''any person engaged directly, or indirectly through one or more affiliates . . . and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.'' [8] A FUCO is defined as ''any company that owns or operates facilities that are not located in any state and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company: (1) Derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and (2) [n]either the company nor any of its subsidiary companies is a public-utility company operating in the United States.'' [9]

An EWG, FUCO, or its representative seeking to self-certify its status as an EWG or FUCO must file with the Commission a notice of self-certification (FERC–598) demonstrating that it satisfies the definition of EWG or FUCO. In the case of EWGs, the person filing a notice of self-certification must also file a copy of the notice of self-certification with the state regulatory authority of the state in which the facility is located and that person must also represent to the Commission in its submission that it has filed a copy of the notice with the appropriate state regulatory authority.[10]

Submission of the information collected by FERC–598 is necessary for the Commission to carry out its responsibilities under section 1266(a) of EPAct 2005.[11] The Commission implements its responsibilities through the Code of Federal Regulations (CFR), Title 18, Part 366. These filing requirements are mandatory for entities seeking to self-certify their EWG or FUCO status, in order to, in turn, exempt their holding companies from Commission regulation.

Type of Respondents: EWGs and FUCOs.

Estimate of Annual Burden: [12] The Commission estimates the total annual burden and cost [13] for this information collection as follows.

FERC–598

[Self-certification for entities seeking exempt wholesale generator status or foreign utility company status]

Number of respondents (EWGs and FUCOs) (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours and cost ($) per response (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Average cost per respondent ($) (5) ÷ (1)
147	1	147	6 hrs.; $459	882 hrs.; $67,473	$459

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

[1] Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 594, 972 *et seq.* (2005) (codified at 42 U.S.C. 16451 *et seq.*).

[2] *Id.* § 1263, 119 Stat. 594, 974.

[3] *Id.* § 1261, 119 Stat. 594, 972.

[4] *Id.* § 1266(a), 119 Stat. 594, 975 (codified at 42 U.S.C. 16454(a)).

[5] *Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005,* 70 FR 75592, FERC Stats. & Regs. ¶ 31,197 (2005), *order on rehearing,* Order 667–A, 71 FR 28446, FERC Stats. & Regs. ¶ 31,213 (2006), *order on rehearing,* Order 667–B, 71 FR 42750, FERC Stats. & Regs. ¶ 31,244 (2006), *order on rehearing,* Order 667–C, 118 FERC ¶ 61,133 (2007).

[6] 18 CFR 366.1, 366.3(a), 366.4, 366.7.

[7] 18 CFR 292.207.

[8] 18 CFR 366.1.

[9] *Id.*

[10] 18 CFR 366.7.

[11] 42 U.S.C. 16454(a).

[12] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[13] Subject matter experts found that industry employment costs (for salary plus benefits) for the FERC–598 information collection closely resemble the Commission's. FERC's 2017 average annual salary plus benefits per FTE (full-time equivalent) is $158,754 (or $76.50 per hour).

(2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 5, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26653 Filed 12–8–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3309–020]

Marlow Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3309–020.

c. *Date Filed:* October 13, 2017.

d. *Submitted By:* Marlow Hydro, LLC.

e. *Name of Project:* Nash Mill Dam Project.

f. *Location:* On the Ashuelot River, near the town of Marlow, in Cheshire County, New Hampshire. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Anthony B. Rosario, 139 Henniker Street, Hillsborough, NH 03244; (603) 494–1854; email *t-iem@tds.net.*

i. *FERC Contact:* Patrick Crile at (202) 502–8042; or email at *patrick.crile@ferc.gov.*

j. Marlow Hydro, LLC filed its request to use the Traditional Licensing Process on October 13, 2017. Marlow Hydro, LLC provided public notice of its request on October 12, 2017. In a letter dated December 5, 2017, the Director of the Division of Hydropower Licensing approved Marlow Hydro, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New Hampshire Division of Historical Resources, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Marlow Hydro, LLC as the Commission's non-federal representative for carrying out consultation pursuant to section 106 of the National Historic Preservation Act.

m. Marlow Hydro, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 3309. Pursuant to 18 CFR 16.20 each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 30, 2020.

p. 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.

Dated: December 5, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26654 Filed 12–8–17; 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 Number: PR18–11–000.
Applicants: Dow Pipeline Company.
Description: Tariff filing per 284.123(b)(2)+(g): DPL Rate Petition to be effective 12/1/2017;
Filed Date: 11/30/17.
Accession Number: 201711305088.
Comments Due: 5 p.m. ET 12/21/17.
284.123(g) Protests Due: 5 p.m. ET 1/29/18.

Docket Number: PR18–12–000.
Applicants: Rocky Mountain Natural Gas LLC.
Description: Tariff filing per 284.123(b),(e)+(g): Revised Statement of Operating Conditions to be effective 11/1/2017;
Filed Date: 11/30/17.
Accession Number: 201711305130.
Comments Due: 5 p.m. ET 12/21/17.
284.123(g) Protests Due: 5 p.m. ET 1/29/18.

Docket Numbers: RP18–232–000.
Applicants: High Island Offshore System, L.L.C.
Description: § 4(d) Rate Filing: FT–2 Contract Amendment to be effective 11/1/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5102.
Comments Due: 5 p.m. ET 12/18/17.

Docket Numbers: RP18–233–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: December 2017 Permanent Relocations & Assignments to be effective 12/1/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5103.
Comments Due: 5 p.m. ET 12/18/17.

Docket Numbers: RP18–234–000.
Applicants: Northern Border Pipeline Company.
Description: Compliance filing Settlement Compliance Period 1 Jan18–Mar18 Docket No. RP12–1093–000 to be effective 1/1/2018.
Filed Date: 12/4/17.
Accession Number: 20171204–5104.
Comments Due: 5 p.m. ET 12/18/17.

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 date(s). 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 5, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26651 Filed 12–8–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–27–000.
Applicants: Allegheny Generating Company, Allegheny Energy Supply Company, LLC, Monongahela Power Company.
Description: Federal Power Act Section 203 Application, Requests for Shortened Comment Period, Confidential Treatment, and Limited Waiver of the Part 33 Filing Requirements of Allegheny Generating Company, et. al.
Filed Date: 12/1/17.
Accession Number: 20171201–5371.
Comments Due: 5 p.m. ET 12/22/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1841–002; ER15–2742–002; ER16–2643–002.
Applicants: Panda Stonewall LLC, Panda Patriot LLC, Panda Liberty LLC.
Description: Supplement to June 30, 2017 Updated Market Power Analysis for the Northeast Region of the Panda MBR Sellers.
Filed Date: 12/1/17.
Accession Number: 20171201–5332.
Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER16–2716–002.
Applicants: NextEra Energy Transmission MidAtlantic, LLC.
Description: Compliance filing: NextEra Energy Transmission MidAtlantic, LLC Compliance Filing to be effective 11/30/2016.
Filed Date: 12/4/17.
Accession Number: 20171204–5144.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER16–2717–002.
Applicants: NextEra Energy Transmission Midwest, LLC.
Description: Compliance filing: NextEra Energy Transmission Midwest, LLC Compliance Filing to be effective 11/30/2016.
Filed Date: 12/4/17.
Accession Number: 20171204–5142.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER16–2719–004.
Applicants: NextEra Energy Transmission New York, Inc.
Description: Compliance filing: NextEra Energy Transmission New York, Inc. Compliance Filing to be effective 11/30/2016.
Filed Date: 12/5/17.
Accession Number: 20171205–5098.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER16–2720–002.
Applicants: NextEra Energy Transmission Southwest, LLC.
Description: Compliance filing: NextEra Energy Transmission Southwest, LLC Compliance Filing to be effective 11/30/2016.
Filed Date: 12/5/17.
Accession Number: 20171205–5000.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER17–889–001.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: 2646R3 Kansas Municipal Energy Agency NITSA NOA to be effective 1/1/2017.
Filed Date: 12/5/17.
Accession Number: 20171205–5074.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER17–2558–000.
Applicants: NTE Ohio, LLC.
Description: Supplemental Amendment to September 28, 2017 NTE Ohio, LLC tariff filing.
Filed Date: 12/1/17.
Accession Number: 20171201–5328.
Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER18–382–000.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Cancellation: Termination of Alamo 1 & 2, Little Bear 3 & 4, Fountain Wind E&P Agreements to be effective 11/7/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5100.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–383–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA SA No. 3670; Queue Position Y2–077 to be effective 11/1/2013.
Filed Date: 12/4/17.
Accession Number: 20171204–5101.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–384–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Queue Position #AC2–145, Original Service Agreement No. 4842 to be effective 11/4/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5106.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–385–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3316R1 Carthage Water and Electric Plant NITSA and NOA to be effective 11/1/2017.
Filed Date: 12/4/17.
Accession Number: 20171204–5112.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–386–000.
Applicants: Dynegy Conesville, LLC.
Description: Tariff Cancellation: Notice of Termination for Rate Schedule No. 1 to be effective 12/31/9998.
Filed Date: 12/4/17.
Accession Number: 20171204–5126.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–387–000.
Applicants: ISO New England Inc., Emera Maine.
Description: § 205(d) Rate Filing: Original Service Agreement under Schedule 21–EM of the ISO–NE Tariff to be effective 1/1/2016.
Filed Date: 12/5/17.
Accession Number: 20171205–5060.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–388–000.
Applicants: New England Power Company.
Description: § 205(d) Rate Filing: Schedule 20A Service Agreement with H.Q. Energy Services to be effective 1/1/2018.
Filed Date: 12/5/17.
Accession Number: 20171205–5062.
Comments Due: 5 p.m. ET 12/26/17.

Docket Numbers: ER18–389–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of Original Service Agreement No. 4584 to be effective 12/22/2017.
Filed Date: 12/5/17.
Accession Number: 20171205–5076.
Comments Due: 5 p.m. ET 12/26/17.

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 5, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–26650 Filed 12–8–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R05–OAR–2017–0277; FRL–9971–62-Region 5]

Adequacy Status of the Metro-East St. Louis, Illinois 2008 Ozone Standard Nonattainment Area for the Submitted Maintenance Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of finding of adequacy.

SUMMARY: In this notice, the Environmental Protection Agency (EPA) is notifying the public that we find the motor vehicle emissions budgets (MVEBs) for volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) in the Illinois portion of the St. Louis area (Madison, Monroe and St. Clair Counties or ''Metro-East area''), 2008 Ozone Standard nonattainment area adequate for use in transportation conformity determinations. Illinois submitted a 2008 Ozone Standard maintenance plan for the Metro-East area on May 8, 2017. As a result of this finding of adequacy, the MVEBs from the submitted maintenance plan must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by the Clean Air Act.

DATES: This finding is applicable December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we'', ''us'' or ''our'' is used, we mean EPA.

Background

Today's notice is an announcement of a finding that we have already made. On September 26, 2017, EPA sent a letter to the Illinois Environmental Protection Agency, stating that the 2030 MVEBs contained in the maintenance plan for the 2008 Ozone Standard for Metro-East area are adequate for transportation conformity purposes. EPA announced receipt of these MVEBs on its transportation conformity Web site, and did not receive any comments during the public comment period. The finding of adequacy is available at EPA's conformity Web site: *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity.*

The 2030 MVEBs, in tons per day (tpd), for VOCs and NO_X for the Metro-East St. Louis, Illinois area are as follows:

Year	NO_X (tpd)	VOCs (tpd)
2030	16.68	9.05

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether they conform. Conformity to a State Implementation Plan (SIP) means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's MVEBs are adequate for transportation conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and is also a separate action from EPA's evaluation of and decision whether to approve a proposed SIP revision.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–26533 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0628; FRL–9970–51]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 0276.16); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Experimental Use Permits (EUPs) for Pesticides,'' and identified by EPA ICR No. 0276.16 and OMB Control No. 2070–0040, represents the renewal of an existing ICR that is scheduled to expire on August 31, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before February 9, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2017–0628, 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 Confidential Business Information (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.*

FOR FURTHER INFORMATION CONTACT: Connie Hernandez, Field and External Affairs Division, Office of Pesticide Programs (7560P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone

number: (703) 305–5190; email address: *hernandez.connie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it 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 estimates 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.
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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: EUPs for Pesticides.

ICR number: EPA ICR No. 0276.16.

OMB control number: OMB Control No. 2070–0040.

ICR status: This ICR is currently scheduled to expire on August 31, 2018. 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 OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire August 31, 2018. The information collection provides EPA with the data necessary to determine whether to issue an EUP under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA requires that before a pesticide product may be distributed or sold in the U.S., it must be registered by EPA. However, FIFRA section 5 authorizes EPA to issue an EUP to allow pesticide companies to temporarily ship pesticide products for experimental use for the purpose of gathering data necessary to support the application for registration of a pesticide product. The EUP application must be submitted in order to obtain a permit.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 567 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are engaged in pesticide, fertilizer, and other agricultural chemical manufacturing. The NAICS for respondents under the ICR include: 325320 (Pesticide and other Agricultural Chemical Manufacturing).

Estimated total number of potential respondents: 31 annually.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 567 hours.

Estimated total annual costs: $37,497. There are no capital operation & maintenance costs associated with this information collection.

III. Are there changes in the estimates from the last approval?

There is an increase of 11 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's adjustment as a result of increased EUP submissions by program participants, as well as higher wage rates for managerial, technical, and clerical occupations. This change is an adjustment.

IV. What is the next step in the process for this ICR?

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 pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: November 27, 2017.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–26658 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9971–26—Region 8]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for PacifiCorp Energy—Hunter Power Plant (Emery County, Utah)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on a petition to object to a state operating permit.

SUMMARY: The EPA Administrator signed an order, dated October 16, 2017, denying the petition submitted by the Sierra Club (Petitioner) objecting to the proposed Clean Air Act (CAA) title V operating permit issued to PacifiCorp Energy. The Order responds to the April 11, 2016 petition objecting to the proposed title V operating permit #1500101002 (Hunter Permit) issued by the Utah Department of Environmental Quality, Division of Air Quality (UDAQ) for the Hunter Power Plant in Castle Dale, Emery County, Utah. The Order constitutes a final action on the petition.

ADDRESSES: You may review copies of the Order, the petition, and other supporting information at the EPA Region 8 Office, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view these documents. You may view the hard copies Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays. The Order is also available electronically at: *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.*

FOR FURTHER INFORMATION CONTACT: Patrick Wauters, Air Program (8P–AR), EPA Region 8, 1595 Wynkoop Street,

Denver, Colorado 80202–1129, (303) 312–6114, *wauters.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords the EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of the EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period. Pursuant to sections 307(b) and 505(b)(2) of the Act, a petition for judicial review of those portions of the Order that deny issues in the petition may be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notice appears in the **Federal Register**.

The EPA received a petition from the Petitioner, requesting that the EPA object to the proposed Hunter Permit for the Hunter Power Plant. The petitioner alleges that the Hunter Permit fails to ensure compliance with applicable requirements under the CAA in that: (1) The permit fails to include Prevention of Significant Deterioration (PSD) requirements; (2) the permit includes Plantwide Applicability Limits that are unlawful and invalid; (3) the permit fails to include unpermitted Approval Order Modifications in 2010, including Best Achievable Control Technology (BACT) requirements; (4) the permit fails to include 2010 PSD requirements, including BACT, for oxides of nitrogen; and (5) UDAQ failed to respond to the Petitioner's comments.

On October 16, 2017, the Administrator issued an Order denying the petition. The Order explains the EPA's basis for denying the petition.

Dated: November 27, 2017.

Douglas H. Benevento,

Regional Administrator, Region 8.

[FR Doc. 2017–26623 Filed 12–8–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10395, The First National Bank of Florida, Milton, Florida

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10395, The First National Bank of Florida, Milton, Florida, has been authorized to take all actions necessary to terminate the Receivership Estate of The First National Bank of Florida (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26660 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10506, NBRS Financial, Rising Sun, Maryland

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10506, NBRS Financial, Rising Sun, Maryland, has been authorized to take all actions necessary to terminate the Receivership Estate of NBRS Financial (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26647 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10381, LandMark Bank of Florida, Sarasota, Florida

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10381, LandMark Bank of Florida, Sarasota, Florida, has been authorized to take all actions necessary to terminate the Receivership Estate of LandMark Bank of Florida (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26659 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10509, Northern Star Bank, Mankato, Minnesota

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10509, Northern Star Bank, Mankato, Minnesota, has been authorized to take all actions necessary to terminate the Receivership Estate of Northern Star Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-

Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26648 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10397, Citizens Bank of Northern California, Nevada City, California

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10397, Citizens Bank of Northern California, Nevada City, California, has been authorized to take all actions necessary to terminate the Receivership Estate of Citizens Bank of Northern California (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26641 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10391, First Southern National Bank, Statesboro, Georgia

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10391, First Southern National Bank, Statesboro, Georgia, has been authorized to take all actions necessary to terminate the Receivership Estate of First Southern National Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26640 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10072, Mirae Bank, Los Angeles, California

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 1007, Mirae Bank, Los Angeles, California, has been authorized to take all actions necessary to terminate the Receivership Estate of Mirae Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26634 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10160—SolutionsBank, Overland Park, Kansas

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10160, SolutionsBank, Overland Park, Kansas, has been authorized to take all actions necessary to terminate the Receivership Estate of SolutionsBank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26637 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10517, Hometown National Bank, Longview, Washington

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10517, Hometown National Bank, Longview, Washington, has been authorized to take all actions necessary to terminate the Receivership Estate of Hometown National Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents

that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26649 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10383, BankMeridian, N.A., Columbia, South Carolina

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10383, BankMeridian, N.A., Columbia, South Carolina, has been authorized to take all actions necessary to terminate the Receivership Estate of BankMeridian, N.A. (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26638 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10389, Public Savings Bank, Huntingdon Valley, Pennsylvania

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10389, Public Savings Bank, Huntingdon Valley, Pennsylvania, has been authorized to take all actions necessary to terminate the Receivership Estate of Public Savings Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26639 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10503, The Freedom State Bank, Freedom, Oklahoma

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10503, The Freedom State Bank, Freedom, Oklahoma, has been authorized to take all actions necessary to terminate the Receivership Estate of The Freedom State Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26646 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10151, Commerce Bank of Southwest Florida, Fort Myers, Florida

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10151, Commerce Bank of Southwest Florida, Fort Myers, Florida, has been authorized to take all actions necessary to terminate the Receivership Estate of Commerce Bank of Southwest Florida (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26636 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10133, Riverview Community Bank, Otsego, Minnesota

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10133, Riverview Community Bank, Otsego, Minnesota, has been authorized to take all actions necessary to terminate the Receivership Estate of Riverview Community Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26635 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10453, Second Federal Savings and Loan Association of Chicago, Chicago, Illinois

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10453, Second Federal Savings and Loan Association of Chicago, Chicago, Illinois, has been authorized to take all actions necessary to terminate the Receivership Estate of Second Federal Savings and Loan Association of Chicago (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26644 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10496, Vantage Point Bank, Horsham, Pennsylvania

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10496, Vantage Point Bank, Horsham, Pennsylvania, has been authorized to take all actions necessary to terminate the Receivership Estate of Vantage Point Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26645 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10415, Premier Community Bank of the Emerald Coast, Crestview, Florida

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10415, Premier Community Bank of the Emerald Coast, Crestview, Florida, has been authorized to take all actions necessary to terminate the Receivership Estate of Premier Community Bank of the Emerald Coast (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26642 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of the Receivership of 10417, American Eagle Savings Bank, Boothwyn, Pennsylvania

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for 10417, American Eagle Savings Bank, Boothwyn, Pennsylvania, has been authorized to take all actions necessary to terminate the Receivership Estate of American Eagle Savings Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 6, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–26643 Filed 12–8–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 82 FR 57265, December 4, 2017.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, December 7, 2017 at 10:00 a.m.

CHANGES IN THE MEETING: *The Following Matter Was Also Considered:*

Assessment of Commission Action on Enforcement Matters Awaiting Reason-to-Believe Consideration.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–26767 Filed 12–7–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, December 14, 2017 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Audit Division Recommendation Memorandum on the Hawaii Democratic Party (HDP) (A13–07)
Draft Advisory Opinion 2017–12: Take Back Action Fund
Assessment of Commission Action on Enforcement Matters Awaiting Reason-to-Believe Consideration
Legislative Recommendations
2018 Meeting Dates
Election of Officers
Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and Clerk, at (202)694–1040, at least 72 hours prior to the meeting date.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–26769 Filed 12–7–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 4, 2018.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Grok Bancshares, Inc., St. Louis, Missouri;* to become a bank holding company by acquiring 100 percent of the voting shares of Clifford Bancshares, Inc., Troy, Missouri, and thereby indirectly acquire CBC Bank, Bowling Green, Missouri.

2. *Reliable Community Bancshares, Inc., Perryville, Missouri;* to acquire 100 percent of the voting shares of Martinsburg Bancorp, Inc., Martinsburg, Missouri, and thereby indirectly acquire Martinsburg Bank & Trust Company, Mexico, Missouri.

In connection with this proposal, Applicant has applied to acquire Martinsburg Acquisition Corp., Perryville, Missouri, which has applied to become a bank holding company by acquiring 100 percent of the voting shares of Martinsburg Bancorp, Inc., Martinsburg, Missouri, and thereby indirectly acquire Martinsburg Bank & Trust Company, Mexico, Missouri.

Board of Governors of the Federal Reserve System, December 5, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–26545 Filed 12–8–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 2017.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *CLS Group Holdings AG,* Lucerne, Switzerland; to engage indirectly through its subsidiary CLS Services Ltd., London, United Kingdom, in data processing activities, pursuant to section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, December 5, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–26544 Filed 12–8–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in

the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 5, 2018.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *FNBEly Bancorporation;* to become a bank holding company by acquiring 100 percent of the outstanding voting shares of The First National Bank of Ely, both of Ely, Nevada.

Board of Governors of the Federal Reserve System, December 6, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–26580 Filed 12–8–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

Notice of Board Member Meeting

AGENDA: Federal Retirement Thrift Investment Board, *December 18, 2017, 10:00 a.m. (Telephonic)*

Open Session

1. Approval of the minutes for the November 28, 2017 Board Member Meeting
2. Monthly Reports
   (a) Participant Activity
   (b) Investment Performance
   (c) Legislative Report
3. OGC Annual Report
4. Blended Retirement Update

Adjourn

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: December 7, 2017.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2017–26713 Filed 12–7–17; 11:15 am]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED
NOVEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

11/01/2017		
20180080	G	General Atlantic Partners 100, L.P.; Anthony Casalena; General Atlantic Partners 100, L.P.
11/02/2017		
20180103	G	ACOF IV CWC AIV Blocked Feeder, L.P.; FWC Holdings LLC; ACOF IV CWC AIV Blocked Feeder, L.P.
11/03/2017		
20171612	S	Red Ventures Holdco, LP; Bankrate, Inc.; Red Ventures Holdco, LP.
20171955	G	Tyson 2009 Family Trust; Nicholas J. Karamatsoukas; Tyson 2009 Family Trust.
20180041	G	CVC Growth Partners L.P.; Actua Corporation; CVC Growth Partners L.P.
20180078	G	Shandong Weigao Group Medical Polymer Co. Ltd.; RoundTable Healthcare Partners III, L.P.; Shandong Weigao Group Medical Polymer Co. Ltd.
20180081	G	L. John Doerr; Essence Group Holdings Corporation; L. John Doerr.
20180089	G	JP Morgan Chase & Co.; WePay, Inc.; JP Morgan Chase & Co.
20180121	G	Eagle Parent Holdings, LLC; Zyme Holdings, Inc.; Eagle Parent Holdings, LLC.
20180123	G	Mr. Aloke Lohia and Mrs. Suchitra Lohia; DowDuPont Inc.; Mr. Aloke Lohia and Mrs. Suchitra Lohia.
20180124	G	Mr. Aloke Lohia and Mrs. Suchitra Lohia; Teijin Limited; Mr. Aloke Lohia and Mrs. Suchitra Lohia.
20180133	G	Tailwind Capital Partners II, L.P.; HMTBP Holdings Inc.; Tailwind Capital Partners II, L.P.
20180150	G	Solace Capital Special Situations Fund, L.P.; The Sterling Group; Solace Capital Special Situations Fund, L.P.
20180151	G	ISQ Global Infrastructure Fund, L.P.; BP Natural Gas Opportunity Partners, LP; ISQ Global Infrastructure Fund, L.P.
20180156	G	OHCP Silver Surfer Holdings Corp.; Dobbs Frenkel Investment Partnership; OHCP Silver Surfer Holdings Corp.
20180158	Y	Emerson Electric Co.; APAX Europe VII–B, L.P.; Emerson Electric Co.
20180161	G	EXC Holdings I Corp.; Excelitas Technologies Holdings LLC; EXC Holdings I Corp.
11/06/2017		
20180085	G	Siris Partners III, L.P.; Synchronoss Technologies, Inc.; Siris Partners III, L.P.
20180086	G	Siris Partners III, L.P.; Synchronoss Technologies, Inc.; Siris Partners III, L.P.

EARLY TERMINATIONS GRANTED—Continued
NOVEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

20180095	G	Odyssey Investment Partners Fund V, LP; Excellere Capital Fund II, LP; Odyssey Investment Partners Fund V, LP.
11/08/2017		
20170926	G	Entercom Communications Corp.; Mr. Sumner Redstone; Entercom Communications Corp.
20171663	G	Entercom Communications Corp.; Bain Capital (CC) IX, L.P.; Entercom Communications Corp.
20171664	G	Entercom Communications Corp.; Thomas H. Lee Equity Fund VI, L.P.; Entercom Communications Corp.
20180060	G	Entercom Communications Corp.; Bain Capital (CC) IX, L.P.; Entercom Communications Corp.
20180061	G	Entercom Communications Corp.; Thomas H. Lee Equity Fund VI, L.P.; Entercom Communications Corp.
20180128	G	Mr. Stefano Pessina; Walgreens Boots Alliance, Inc.; Mr. Stefano Pessina.
20180154	G	Alphabet Inc.; Lyft, Inc.; Alphabet Inc.
11/09/2017		
20180070	G	Friedman Fleischer & Lowe Capital Partners III, L.P.; Richard J. Kurtz; Friedman Fleischer & Lowe Capital Partners III, L.P.
20180109	G	HomeServe plc; Dominion Energy, Inc.; HomeServe plc.
20180143	G	DowDuPont Inc.; AgroFresh Solutions, Inc.; DowDuPont Inc.
11/13/2017		
20180088	G	Akamai Technologies, Inc.; Nominum, Inc.; Akamai Technologies, Inc.
11/14/2017		
20180044	G	Colfax Corporation; CIRCOR International, Inc.; Colfax Corporation.
20180155	G	Audax Private Equity Fund V–A, L.P.; Wolters Kluwer N.V.; Audax Private Equity Fund V–A, L.P.
20180160	G	New Omaha Holdings L.P.; BluePay Holdings, Inc.; New Omaha Holdings L.P.
20180165	G	Mr. Gregory Lindberg; Resolution Life L.P.; Mr. Gregory Lindberg.
20180174	G	M5 Midstream LLC; M5 Louisiana Gathering, LLC; M5 Midstream LLC.
20180178	G	C&J Energy Services, Inc.; White Deer Energy L.P.; C&J Energy Services, Inc.
20180179	G	Tailwind Capital Partners III, L.P.; BP SCI, LLC; Tailwind Capital Partners III, L.P.
20180180	G	ECN Capital Corp.; Triad Financial Services, Inc.; ECN Capital Corp.
20180183	G	Insight Venture Partners X, L.P.; Revere Superior Holding, Inc.; Insight Venture Partners X, L.P.
20180190	G	Vitol Holding II S.A.; Noble Group Limited; Vitol Holding II S.A.
20180191	G	CTEC 1 S.a.r.L; Faenza Holding S.a.r.L; CTEC 1 S.a.r.L.
20180198	G	CPTC Acquisition, LLC; California Proton Treatment Center, LLC; CPTC Acquisition, LLC.
11/15/2017		
20180144	G	Delphi Automotive PLC; nuTonomy, Inc.; Delphi Automotive PLC.
20180175	G	Holcombe T. Green, Jr.; Fusion Telecommunications International, Inc.; Holcombe T. Green, Jr.
20180189	G	Intercontinental Exchange, Inc.; Vincent Viola; Intercontinental Exchange, Inc.
20180195	G	Kerry Group plc; Tyson 2009 Family Trust; Kerry Group plc.
11/17/2017		
20180132	G	Hearthside Group Holdings, LLC; Standard Candy Holdings, Inc.; Hearthside Group Holdings, LLC.
20180186	G	Robert E. Rich Jr.; James Nicholas DeSisto; Robert E. Rich Jr.
20180194	G	Joel Freedman; Tenet Healthcare Corporation; Joel Freedman.
20180196	G	EQT Infrastructure II Limited Partnership; Seacastle, Inc.; EQT Infrastructure II Limited Partnership.
20180199	G	Henkel AG & Co. KGaA; Shiseido Company, Limited; Henkel AG & Co. KGaA.
20180203	G	Masco Corporation; William Rowley; Masco Corporation.
20180206	G	Kodiak Building Products Inc.; Wolverine Investors, LLC; Kodiak Building Products Inc.
20180207	G	Vista Equity Partners Fund VI, L.P.; Vista Foundation Fund II, L.P.; Vista Equity Partners Fund VI, L.P.
20180208	G	Vista Foundation Fund II, L.P.; Vista Equity Partners Fund VI, L.P.; Vista Foundation Fund II, L.P.
20180209	G	Vista Equity Partners Fund VI, L.P.; Austin McChord; Vista Equity Partners Fund VI, L.P.
20180210	G	Rhone Partners V L.P.; Hudson's Bay Company; Rhone Partners V L.P.
20180213	G	Proofpoint, Inc.; Cloudmark, Inc.; Proofpoint, Inc.
20180216	G	Riverstone Global Energy and Power Fund V, L.P.; Gilmore E. Caswell III; Riverstone Global Energy and Power Fund V, L.P.
20180217	G	Riverstone Global Energy and Power Fund V, L.P.; Wes L. Caswell; Riverstone Global Energy and Power Fund V, L.P.
20180218	G	South Dakota Wheat Growers Association; North Central Farmers Elevator; South Dakota Wheat Growers Association.
20180228	G	BNP Paribas S.A.; Janus Henderson Group plc; BNP Paribas S.A.
20180237	G	TPG Partners VII, L.P.; Exactech, Inc.; TPG Partners VII, L.P.
11/20/2017		
20180122	G	Industrial Alliance Insurance and Financial Services, Inc.; James B. Smith; Industrial Alliance Insurance and Financial Services, Inc.
20180222	G	Electronic Arts Inc.; Vince Zampella; Electronic Arts Inc.

EARLY TERMINATIONS GRANTED—Continued
NOVEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

		11/21/2017
20180167	G	GSO Diamond Portfolio Fund LP; NewStar Financial, Inc.; GSO Diamond Portfolio Fund LP.
20180168	G	BCP CC Holdings L.P.; NewStar Financial, Inc.; BCP CC Holdings L.P.
20180176	G	Astronics Corporation; Gloria J.B. and Paul C. Burke; Astronics Corporation.
20180188	G	Hormel Foods Corporation; Arbor Investments III, L.P.; Hormel Foods Corporation.
20180225	G	Tabbassum Mumtaz; Yum! Brands, Inc.; Tabbassum Mumtaz.
20180230	G	Vestar Capital Partners VI, L.P.; Wind Point Partners, VII–A, L.P.; Vestar Capital Partners VI, L.P.
20180232	G	Elliott International Limited; Gigamon Inc.; Elliott International Limited.
20180239	G	Andrew W. Houston; Dropbox, Inc.; Andrew W. Houston.
		11/22/2017
20171045	G	Schlumberger N.V. (Schlumberger Limited); A to-be-formed Delaware limited liability company; Schlumberger N.V. (Schlumberger Limited).
20180125	G	Aramark; Marriott International, Inc.; Aramark.
20180130	G	Graphic Packaging Holding Company; Gazelle Newco, LLC; Graphic Packaging Holding Company.
20180219	G	Sudzucker AG; Centerview Capital, L.P.; Sudzucker AG.
20180236	G	Strayer Education, Inc.; Capella Education Company; Strayer Education, Inc.
20180240	G	Arash Ferdowsi; Dropbox, Inc.; Arash Ferdowsi.
20180245	G	Terry Taylor; Roger S. Penske; Terry Taylor.
20180252	G	TransMontaigne Partners L.P.; Plains All American Pipeline, L.P.; TransMontaigne Partners L.P.
20180255	G	AE Industrial Partners Fund I, L.P.; EnCore Composites Holdings, Inc.; AE Industrial Partners Fund I, L.P.
		11/27/2017
20180233	G	Potlatch Corporation; Deltic Timber Corporation; Potlatch Corporation.
		11/28/2017
20180182	G	The Hearst Family Trust; Maria Rodale; The Hearst Family Trust.
20180211	G	Saputo Inc.; Arnaud Solandt; Saputo Inc.
20180220	G	Cargill, Incorporated; CW Brand Holdings, Inc.; Cargill, Incorporated.
20180246	G	TPG Asia VI, L.P.; Dong Hwan Koh; TPG Asia VI, L.P.
20180247	G	Andina Acquisition Corp. II; Wayzata Opportunities Fund II, L.P.; Andina Acquisition Corp. II.
20180253	G	Gregory B. Maffei; Liberty Interactive Corporation; Gregory B. Maffei.
20180258	G	Innergex Renewable Energy Inc.; Alterra Power Corp.; Innergex Renewable Energy Inc.
20180279	G	Proto Labs, Inc.; James L. Jacobs, II; Proto Labs, Inc.
20180284	G	Thoma Bravo Fund XII, L.P.; Jim Bottin Enterprises, Inc.; Thoma Bravo Fund XII, L.P.
20180285	G	William G. Davis; David Hudson; William G. Davis.
		11/29/2017
20180242	G	H.I.G. Capital Partners V, L.P.; Velocity Solutions, LLC; H.I.G. Capital Partners V, L.P.
20180256	G	LM Tortoise Holdings LLC; Martin C. Bicknell; LM Tortoise Holdings LLC.
20180262	G	Karman Topco L.P.; Bain Capital Asia Fund III, L.P.; Karman Topco L.P.
20180271	G	Owens & Minor, Inc.; Halyard Health, Inc.; Owens & Minor, Inc.
20180286	G	Unilever N.V.; Starbucks Corporation; Unilever N.V.
20180295	G	GEPIF II Bravo AIV, L.P.; SemGroup Corporation; GEPIF II Bravo AIV, L.P.
20180296	G	GEPIF II Bravo AIV, L.P.; NGL Energy Partners LP; GEPIF II Bravo AIV, L.P.
20180298	G	Energy Capital Partners III–C Offshore Feeder, LP; Sunnova Energy Corporation; Energy Capital Partners III–C Offshore Feeder, LP.
		11/30/2017
20180250	G	Naspers Limited; Remitly, Inc.; Naspers Limited.
20180259	G	Anthem, Inc.; Kiran C. Patel; Anthem, Inc.
20180277	G	Eurazeo SE.; Planet Payment, Inc.; Eurazeo SE.
20180278	G	Madison Dearborn Capital Partners VII–A, L.P.; AmTrust Financial Services, Inc.; Madison Dearborn Capital Partners VII–A, L.P.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–26578 Filed 12–8–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0037; Docket 2017–0053; Sequence 9]

Submission for OMB Review; Presolicitation Notice and Response

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning pre-solicitation notice and response. A notice was published in the **Federal Register** at 82 FR 40001 on August 23, 2017. No comments were received.

DATES: Submit comments on or before January 10, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB Control number 9000–0037. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0037, Presolicitation Notice and Response''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0037, Presolicitation Notice and Response'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0037, Presolicitation Notice and Response.

Instructions: Please submit comments only and cite Information Collection 9000–0037, Presolicitation Notice and Response, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr. Procurement Analyst, Acquisition Policy Division, GSA 202–501–1448 or *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Presolicitation notices are used by the Government for several reasons, one of which is to aid prospective contractors in submitting proposals without undue expenditure of effort, time, and money. The Government also uses the presolicitation notices to control printing and mailing costs. The presolicitation notice response is used to determine the number of solicitation documents needed, and to assure that interested offerors receive the solicitation documents. The responses are placed in the contract file, and referred to, when solicitation documents are ready for mailing.

After mailing, the responses remain in the contract file and become a matter of record. The FAR sections affected are: 4.5; 14.205; 15.201(c) and 36.213–2. The responses are placed in the contract file and referred to when solicitation documents are ready for mailing. After mailing, the responses remain in the contract file and become a matter of record. FedBizOpps is an electronic method for publicizing contract opportunities. The number of presolicitation notices issued government-wide in the last 365 days (as of August 11, 2017) per FedBizOpps was 7,952.

We estimate that three respondents on average would reply to a presolicitation notice. Based on this information, we feel that the estimated respondents would number 23,856. We also estimate that each respondent on average would reply to three presolicitation notices a year. Time required to read and prepare information is estimated at five minutes per completion.

The burden has increased from the one in **Federal Register** Notice 79 FR 49316, dated August 20, 2014, due to the additional number of presolicitation notices issued by the Federal Government in FedBizOpps. This had the effect of expanding the number of respondents who would be affected by the collection.

B. Annual Reporting Burden

Respondents: 16,699.

Responses per Respondent: 3.

Annual Responses: 50,097.

Hours per Response: .08.

Total Burden Hours: 4,008.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0037, Presolicitation Notice and Response, in all correspondence.

Dated: December 4, 2017.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2017–26570 Filed 12–8–17; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2017–0117]

National Health and Nutrition Examination Survey (NHANES) Stored Biologic Samples; Proposed Cost Schedule and Guidelines for Proposals to Use Serum, Plasma, and Urine Samples

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces the availability of stored sera, plasma, and urine samples obtained from participants in the National Health and Nutrition Examination Survey (NHANES) for use and the fee schedule for such use. The National Health and Nutrition Examination Survey (NHANES) is one of a series of health-related surveys conducted by CDC's National Center for Health Statistics (NCHS).

DATES: The stored NHANES biologic samples are available December 11, 2017. The fee structure for these samples is effective December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Geraldine McQuillan, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Hyattsville, MD 20782. Telephone: 301–458–4371; Fax: 301–458–4029; Email: *Serumplasmaurine@cdc.gov*

Authority: Sections 301,306 and 308 of the Public Health Service Act (42 U.S.C. 241,242k and 242M).

SUPPLEMENTARY INFORMATION: NHANES is a program of periodic surveys conducted by NCHS. Examination surveys conducted since 1960 by NCHS have provided national estimates of the health and nutritional status of the U.S. civilian non-institutionalized population. The goals of NHANES are: (1) To estimate the number and percent of persons in the U.S. population and designated subgroups with selected diseases and risk factors; (2) to monitor trends in the prevalence, awareness, treatment and control of selected diseases; (3) to monitor trends in risk behaviors and environmental exposures; (4) to analyze risk factors for selected diseases; (5) to study the relationship between diet, nutrition and health; (6) to explore emerging public health issues and new technologies; and (7) to establish and maintain a national probability sample of baseline information on health and nutrition status.

Samples are available from NHANES III and the continuous NHANES that started in 1999. Approximately 30,000 individuals were examined in NHANES III, which began in the fall of 1988, and ended in the fall of 1994. Researchers can analyze data from this survey in two phases. Phase 1 was conducted from October 1988 to October 1991 and Phase 2 began October 1991 and ended October 1994. Though participants consented to storing samples of their blood and urine for future testing, only research proposals with test results that are judged *not* to have clinical significance for participants will be accepted. See: *http://www.cdc.gov/nchs/nhanes/nhanes3.htm,* for more information on NHANES III.

Beginning in 1999, NHANES became a continuous, annual survey with examination of approximately 5,000 individuals a year and data release every two years. Samples from a single year of the survey will only be provided in emergency situations (outbreaks). Research projects must use two-year cycles or multiple two year cycles for their research (*i.e.* 1999–2000, 2001–2002 etc.) In order to assure the representative nature of NHANES at least a ⅓ sample of a two year cycle must be requested for an individual proposal. For details of the sampling design, see the Analytic Guidelines at: *https://wwwn.cdc.gov/nchs/nhanes/analyticguidelines.aspx.*

Starting in 1999, the consent form informed participants that they would not receive results from any future laboratory analysis that may be conducted on their samples. Therefore, only research proposals with laboratory test results that do *not* have clinical significance to the survey participant will be accepted. Clinical significance of a laboratory test will be judged by the technical panel reviewing proposals, and the researcher should address this in the research proposal. A laboratory analyte is considered clinically significant to the survey participant if the following criteria are met: The findings have significant implications for the participant's health, a course of action is readily available to treat the associated health concern, and laboratory tests are performed by a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory and therefore deemed valid.

Serum, plasma, and urine samples are currently available from NHANES III (conducted from 1988–1994) and from NHANES 1999–2016 (Table A).

Serum, plasma, and urine samples are stored in two biorepositories. Surplus samples that were initially used for laboratory assays included in the surveys, were stored at −70 °C and have been through at least two freeze-thaw cycles. They are stored at a commercial biorepository under contract to NCHS. In addition, serum, plasma, and urine samples were also stored immediately after collection at −80 °C or below in vapor-phase liquid nitrogen. These samples have not undergone a freeze-thaw cycle and are considered pristine samples. The CDC and Agency for Toxic Substances and Disease Registry (ATSDR) Sample Packaging and Handling Repository (CASPIR) is the long-term repository for the pristine NHANES serum, plasma, and urine samples. NCHS is making both of these collections available for research proposals. Proposals that request pristine samples stored at CASPIR should justify the use of the unthawed samples. Please see the NHANES Biospecimen Program series report for details about collection and storage of serum, plasma, and urine samples *http://www.cdc.gov/nchs/data/series/sr_02/sr02_170.pdf.*

TABLE A—OVERVIEW OF BIOSPECIMENS BY SURVEY YEAR, NHANES III (1988–1994) AND NHANES 1999–2014

NHANES Cycle	Sample Type					
	Pristine [1]			Surplus [2]		
	Sera	Plasma	Urine	Sera	Plasma	Urine
III (1988–1994)	X	.....	.....	X	.....	.....
1999–2000	X	X	X	X	X	X
2001–2002	X	X	X	X	X	X
2003–2004	X	X	X	X	.....	.....

TABLE A—OVERVIEW OF BIOSPECIMENS BY SURVEY YEAR, NHANES III (1988–1994) AND NHANES 1999–2014—Continued

NHANES Cycle	Sample Type					
	Pristine [1]			Surplus [2]		
	Sera	Plasma	Urine	Sera	Plasma	Urine
2005–2006	X	X	X	X	.....	.....
2007–2008	X	X	X	X	.....	.....
2009–2010	X	X	X	X	.....	.....
2011–2012	X	.....	X	X	.....	.....
2013–2014	X	.....	X	X	.....	.....
2015–2016	X	.....	X	X	.....	.....

[1] Samples immediately frozen for storage, did not undergo laboratory testing.
[2] Samples were surplus after laboratories had completed testing.

Proposal Evaluation

All proposals for use of NHANES samples will be evaluated by a Technical Panel for scientific merit, public health significance, and lack of clinical significance to the participant; by the NCHS Confidentiality Officer for disclosure risk; and by the NCHS Human Subjects Officer and the ERB for any potential human subjects concerns. The NCHS Ethics Review Board (ERB) will review the proposal even if the investigator has received approval by their institutional review panel.

The Technical Panel consists of NHANES staff: Two physicians, one statistician and two laboratory experts, other experts from inside or outside the Federal Government are added as needed. The Technical Panel will evaluate the proposal for the scientific, technical and medical significance of the research, the appropriateness and adequacy of the research design, and the methodology proposed to reach the research goals. See 'Criteria for Technical Evaluation of Proposals' below. The proposal should outline how the results from the laboratory analysis will be used. Because NHANES is a complex, multistage probability sample of the U.S. population, the appropriateness of the NHANES sample to address the goals of the proposal will be an important aspect of scientific merit.

The survey oversamples the two largest race/ethnic minority groups, non-Hispanic blacks and Mexican Americans (and all Hispanics since 2007–08), and, since 2011–2012, Asians. Sampling weights are therefore used to make national estimates of frequencies. The use of weights, sampling frame and methods of assessment of variables included in the data are likely to affect the proposed research. For this reason proposers are required to request at least a ⅓ sample of a NHANES cycle to maintain the representative nature of the survey.

The Technical Panel will also review the data analysis plan and evaluate whether the proposal is an appropriate use of the NHANES samples. The investigators should justify why they need a national probability sample for their research. The Technical Panel will assure that the proposed project does not go beyond either the general purpose for collecting the samples in the survey, or of the specific stated goals of the proposal.

Investigators are encouraged to review the NHANES data, survey documents, manuals and questionnaires at: *http://www.cdc.gov/nchs/nhanes/nhanes_questionnaires.htm* or for NHANES III: *https://wwwn.cdc.gov/nchs/nhanes/nhanes3/datafiles.aspx*

Procedures for Proposals

All investigators (including CDC investigators) must submit a proposal for use of NHANES serum, plasma, or urine samples. Proposals are limited to a maximum of 10 single-spaced typed pages, excluding figures and tables, using at least a size 10 font 10cpi. The cover of the proposal should include the name, address, and phone number and Email address of the principal investigator (PI) and the name of the institution where the laboratory analysis will be done. All proposals should be Emailed to *Serumplasmaurine@cdc.gov*. Proposals must include a cover page with the title of the proposal and the name, address, phone number and Email address of all investigators. Proposals from CDC investigators must also include investigators scientific ethics verification number.

The following criteria will be used for technical evaluation of proposals:

Proposals should include the following information:

(1) *Specific Aims:* List the broad objectives; describe concisely and realistically what the research is intended to accomplish, and state the specific hypotheses to be tested. NHANES is designed to provide prevalence estimates of diseases or conditions that are expected to affect at least 5–10 percent of the population. Research proposals that expect much lower prevalence estimates need to provide more detail on why samples from NHANES are needed for the project and provide details on how these data will be analyzed.

(2) *Background and Public Health Significance:* Describe the public health significance, scientific merit, and practical utility of the assay. Briefly describe in 1–2 pages the background of the proposal, identifying gaps in knowledge that the project is intended to fill. State concisely the importance of the research in terms of the broad, long-term objectives and public health relevance including a discussion of how the results will affect public health policy or further scientific knowledge. The proposal should justify the need for samples that are representative of the U.S. population. The proposer should convey how the results will be used and the relationship of the results to the data already collected in NHANES. The analyses should be consistent with the NHANES mission and the health status variables.

(3) *Research Design and Methods:* Describe the research design, analytic plan, and the procedures to be used. A detailed description of laboratory methods including validity and reliability must be included with references. The volume of sample and number of samples requested must be specified. Adequate methods for handling and storage of samples must also be addressed. The laboratory must demonstrate expertise in the proposed laboratory test including the capability for handling the workload requested in the proposal. The proposal should also include a justification for determination of sample size or a power calculation. If

the researcher is requesting a sub-sample of samples, a detailed description and justification, must be given. The researcher must describe how this sub-sample will be re-weighted to provide national estimates.

The program will evaluate the Investigator's submitted proposal study design and analysis plan to determine whether the project is consistent with the design of the NHANES survey. In general, resulting data will be released in the public domain. Released data from sub-samples may be less useful to the research community, so such requests will receive a lower priority for the samples.

(4) *Clinical Significance of Results:* Address the clinical significance to the survey participant of the proposed laboratory test. Since the consent document for sample storage and future studies states that individual results will not be provided to the participant, the investigator must address whether there is definitive evidence that the proposed test results have health implications to the participants and whether knowledge of results would provide grounds for medical intervention (even if many years have passed since the participant was in the survey and the sample collected). Any test with results that are clinically significant, and would require reporting to the participant, is not appropriate for testing on the stored serum, plasma, or urine samples; laboratory testing that is clinically significant should be considered for inclusion in a concurrent NHANES survey.

(5) *Qualification:* Provide a brief description of the Principal Investigator's expertise in the proposed area, including publications in this area within the last three years. A representative sample of earlier publications may be listed as long as this section does not exceed two pages.

(6) *Period of Performance:* Specify the project time period. Substantial progress must be made in the first year that samples have been obtained, and the project should be completed within a reasonable time period. Please discuss the approximate time the investigator expects this project will take to complete the project. At the end of the project period, any unused samples must be returned to the NHANES Specimen Repository or discarded. The NCHS Project Officer must be consulted about the disposition of the samples.

(7) *Funding:* The source and status of the funding to perform the requested laboratory analysis should be included. Investigators will be responsible for the cost of processing and shipping the samples. The cost per sample is $13.00. The basis for the cost structure is in the last section of this document. Reimbursement for the samples will be collected before the samples are released.

Submission of Proposals

Proposals can be submitted in MS Word format by Email to: Dr. Geraldine McQuillan (see **FOR FURTHER INFORMATION CONTACT**).

Project Timeframes

- Submitting Proposals: Can be submitted on an ongoing basis
- Scientific Review Date: Within two months of proposal submission
- Institutional Review Date: Within one month of final proposal acceptance
- Anticipated distribution of samples: One month after ERB approval

Approved Proposals

Approved projects will be provided samples after receipt of a signed Materials Transfer Agreement (MTA) and a check (written to The Centers for Disease Control and Prevention) for the cost of the samples or for Federal Government proposals a signed Interagency Agreement (IAA). All laboratory results obtained from the samples must be sent back to NCHS to be linked to the variables requested by the investigator that are needed to perform a quality control review of the data under a signed Data Sharing Agreement or a Designated Agent Agreement. This review must take place within 60 days of the return of the data to NCHS so these data may be released to the public. All files will also undergo disclosure review at NCHS before release.

Agency Agreement

A formal signed agreement in the form of a MTA or an IAA with investigators who have projects approved will be completed before the release of the samples. This agreement will contain the conditions for use of the samples as stated in this document and as agreed upon by the investigators and CDC.

Continuations

A brief progress report will be submitted annually. This will be the basis for the NCHS ERB continuation reports that are required annually. After 5 years of annual continuations, if there is need for continued use of samples to complete the protocol study, a new protocol is required.

Disposition of Results and Samples

No samples provided can be used for any purpose other than those specifically requested in the proposal and approved by the Technical Panel and the NCHS ERB. No samples can be shared with others, including other investigators, unless specified in the proposal and so approved. Any unused samples must be returned to the NHANES Serum, Plasma and Urine Repository or disposed of, after NHANES approval, upon completion of the approved project. These results, once returned to NCHS, will be part of the public domain. The proposer will have 60 days for quality control review of the data before public release.

Cost Schedule for Providing NHANES Samples

There is a nominal processing fee of $13.00 for each sample received from the NHANES Serum, Plasma and Urine Repository. If the investigator requests to use the samples for another project after the completion of the initial project, the cost will be $5.00 per sample to handle the processing of the data and management of the proposal process. The costs include the collection, storage, and processing of the samples along with the review of proposals and the preparation of the data files. The costs listed are for the recurring laboratory materials to dispense and prepare the samples during collection and for shipping; the computer software needed for the preparation of the data files and for the release of the data along with documentation on the NHANES Web page. See: *https://www.cdc.gov/nchs/nhanes/about_nhanes.htm.* Labor costs are based on a proposal administrator and computer programmers at NCHS to prepare the data files. The storage and pulling the samples from the freezer fees include the costs for the NHANES repository.

FEE SCHEDULE FOR NHANES BIOLOGIC SAMPLES

Cost factors	Cost per vial
Material and Equipment	$2.85
Processing the samples (Receiving, handling and shipping)	2.15
Administrative, management of the proposal process	1.50
Inventory management	1.50
Preparation of data files	3.50
Subtotal	11.50
CDC Support (5%)	0.58
Subtotal	12.08
NCHS Support (7.50%)	0.91
Total	13.00 *

* Total is rounded up from $12.99

Dated: December 5, 2017.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2017–26591 Filed 12–8–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10142]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (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 10, 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:* Revision of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* We require that Medicare Advantage organizations and Prescription Drug Plans complete the BPT as part of the annual bidding process. During this process, organizations prepare their proposed actuarial bid pricing for the upcoming contract year and submit them to us for review and approval. The purpose of the BPT is to collect the actuarial pricing information for each plan. The BPT calculates the plan's bid, enrollee premiums, and payment rates. We publish beneficiary premium information using a variety of formats (*www.medicare.gov,* the Medicare & You handbook, Summary of Benefits marketing information) for the purpose of beneficiary education and enrollment. *Form Number:* CMS–10142 (OMB control number: 0938–0944); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 555; *Total Annual Responses:* 4,995; *Total Annual Hours:* 149,850. (For policy questions regarding this collection contact Rachel Shevland at 410–786–3026.)

Dated: December 6, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–26604 Filed 12–8–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10529]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

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 10, 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:* Extension without change of a currently approved collection; *Title of Information Collection:* Quarterly Medicaid and CHIP Budget and Expenditure Reporting for the Medical Assistance Program, Administration and CHIP; *Use:* The Medicaid Budget and Expenditure System (MBES) and the Child Health Budget and Expenditure System (CBES) is a financial reporting system that produces Budget and expenditures for Medical Assistance and Children's Health Insurance Program. All forms are to be filed on a quarterly basis and need to be certified by the States to the CMS. The forms consist of CMS–21 and –21B, CMS–37, and CMS–64.

Forms CMS–21 and –21B provide CMS with the information necessary to issue quarterly grant awards, monitor current year expenditure levels, determine the allowability of state claims for reimbursement, develop Children's Health Insurance Program (CHIP) financial management information, provide for state reporting of waiver expenditures, and ensure that the federally established allotment is not exceeded. They are also necessary in the redistribution and reallocation of unspent funds over the federally mandated timeframes.

Form CMS–37 due dates are November 15, February 15, May 15 and August 15 of each fiscal year. While all submissions represent equally important components of the grant award cycle, the May and November submissions are particularly significant for budget formulation. The November submission introduces a new fiscal year to the budget cycle and serves as the basis for the formulation of the Medicaid portion of the President's Budget, which is presented to Congress in January. The February and August submissions are used primarily for budget execution in providing interim updates to our Office of Financial Management, the Department of Health and Human Services, the Office of Management and Budget, and Congress depending on the scheduling of the national budget review process in a given fiscal year. The submissions provide us with base information necessary to track current year obligations and expenditures in relation to the current year appropriation and to notify senior managers of any impending surpluses or deficits.

Form CMS–64 is used to issue quarterly grant awards, monitor current year expenditure levels, determine allowed state claims for reimbursement, develop Medicaid financial management information provide for state reporting of waiver expenditures, ensure that the federally-established limit is not exceeded for HCBS waivers, and to allow for the implementation of the Assignment of Rights and Part A and Part B Premium (*i.e.,* accounting for overdue Part A and Part B Premiums under state buy-in agreements)—Billing Offsets. *Form Number:* CMS–10529 (OMB control number: 0938–1265); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 672; *Total Annual Hours:* 17,920. (For policy questions regarding this collection contact Chris Kessler at 410–786–7168.)

Dated: December 6, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–26575 Filed 12–8–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Case Plan Requirement, Title IV–E of the Social Security Act.

OMB No.: 0970–0428.

Description: Under section 471(a)(16) of title IV–E of the Social Security Act (the Act), to be eligible for payments, states and tribes must have an approved title IV–E plan that provides for the development of a case plan for each child for whom the State or Tribe receives foster care maintenance payments and that provides a case review system that meets the requirements in section 475(5) and 475(6) of the Act.

The case review system assures that each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family-like) setting available and in close proximity to the child's parental home, consistent with the best interest and special needs of the child. Through these requirements, States and Tribes also comply, in part, with title IV–B section 422(b) of the Act, which assures certain protections for children in foster care.

The case plan is a written document that provides a narrative description of the child-specific program of care. Federal regulations at 45 CFR 1356.21(g) and section 475(1) of the Act delineate the specific information that should be addressed in the case plan. The Administration for Children and Families (ACF) does not specify a recordkeeping format for the case plan nor does ACF require submission of the document to the Federal government. Case plan information is recorded in a format developed and maintained by the State or Tribal child welfare agency.

Respondents: State and Tribe title IV–B and title IV–E agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Case Plan	544,098	1	4.80	2,626,436

Estimated Total Annual Burden Hours: 2,626,436.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–26553 Filed 12–8–17; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1072]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Application for Participation in Food and Drug Administration Fellowship Programs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by January 10, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0780. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Application for Participation in FDA Fellowship Programs (Formerly Application for Participation in the FDA Commissioner's Fellowship Program)—OMB Control Number 0910–0780—Extension

Sections 1104, 1302, 3301, 3304, 3320, 3361, 3393, and 3394 of Title 5 of the United States Code authorize Federal agencies to rate applicants for Federal jobs. The proposed information collection involves brief online applications completed by applicants applying to FDA's fellowship programs. These voluntary online applications will allow the Agency to easily and efficiently elicit and review information from students and healthcare professionals who are interested in becoming involved in FDA-wide activities. The process will reduce the time and cost of submitting written documentation to the Agency and lessen the likelihood of applications being misrouted within the Agency mail system. It will assist the Agency in promoting and protecting the public health by encouraging outside persons to share their expertise with FDA.

In the **Federal Register** of June 20, 2017 (82 FR 28075), FDA published a 60-day notice requesting public comment on the proposed collection of information. Although one comment was received, it wasn't responsive to the four collection of information topics solicited and therefore will not be discussed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Commissioner's Fellowship Program	600	1	600	1.33	798
Regulatory Science Internship Program	250	1	250	1	250
Medical Device Fellowship Program	250	1	250	1	250
Total					1,298

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 5, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–26543 Filed 12–8–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0263]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before February 9, 2018.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-New–60D and project title for reference., to *Sherrette.funn@hhs.gov,* or call the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. Information Collection Request Title: 0990–0263-Extension Protection of Human Subjects Assurance Identification/IRB Certification/Declaration of Exemption (Common Rule) form.

Abstract: Assistant Secretary for Health, Office for Human Research Protections is requesting an extension on a currently approved information collection by the Office of Management and Budget, OMB, on the Protection of Human Subjects: Assurance Identification/IRB Certification/ Declaration of Exemption Form. That form is designed to provide a simplified procedure for institutions engaged in research conducted or supported by the Department of Health and Human Services (HHS) to satisfy the requirements of HHS regulations for the protection of human subjects at 45 CFR 46.103. The respondents for this collection are institutions engaged in research involving human subjects where the research is supported by HHS. Institutional use of the form is also relied upon by other federal departments and agencies that have codified or follow the Federal Policy for the Protection of Human Subjects (Common Rule) which is identical to 45 CFR part 46, subpart A.

Likely Respondents: Individuals, business or other for-profit, not for-profit institutions, Federal, State, Local or Tribal Governments.

ESTIMATE ANNUALIZED BURDEN IN HOURS TABLE

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Protection of Human Subjects: Assurance Identification/IRB Certification/ Declaration of Exemption	14,000	2	0.5	14,000
Total				14,000

Terry S. Clark,

Asst Information Collection Clearance Officer.

[FR Doc. 2017–26568 Filed 12–8–17; 8:45 am]

BILLING CODE 4150&ndash36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Institutes of Health, December 14, 9:00 a.m. to 5:30 p.m. and December 15, 2017, 9:00 a.m. to 1:00 p.m., that was published in the **Federal Register** on Tuesday, November 14, 2017, 82 FR 52737.

The meeting will be closed to the public on December 14, 2017, from 4:45 p.m. to 5:15 p.m. for the discussion and identification of specific candidates for leadership positions at the NIH in accordance with the provisions set forth in sections 552b(c)(9)(B) and 552b(c)(6), Title 5 U.S.C., as amended. Premature disclosure of potential candidates and their qualifications, as well as the discussions by the committee, could significantly frustrate NIH's ability to recruit these individuals and the consideration of personnel qualifications, performance, and the competence of individuals as candidates would constitute a clearly unwarranted invasion of personal privacy.

There are no changes for the open portion of the meeting scheduled for December 15, 2017.

Dated: December 5, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26548 Filed 12–8–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: January 23–24, 2018.

Closed: January 23, 2018, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, C Wing 6th Floor Conference Room 10, Bethesda, MD 20892.

Open: January 24, 2018, 8:00 a.m. to 1:30 p.m.

Agenda: Call to order and report from the Director; Discussion of future meeting dates; Consideration of minutes of last meeting; Reports from Task Force on Minority Aging Research, Working Group on Program; Council Speaker; Program Highlights.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, C Wing 6th Floor Conference Room 10, Bethesda, MD 20892.

Closed: January 24, 2018, 1:30 p.m. to 2:00 p.m.

Agenda: Intramural Research Program.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, C Wing 6th Floor Conference Room 10, Bethesda, MD 20892.

Contact Person: Robin Barr, Director, National Institute on Aging, Office of Extramural Activities, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *barrr@nia.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/about/naca,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 5, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26550 Filed 12–8–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Neuroscience Development for Advancing the Careers of a Diverse Research Workforce (R25).

Date: January 11, 2018.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ernest Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056, *lyonse@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: December 5, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26552 Filed 12–8–17; 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; Generic Clearance To Conduct Formative Research (NIAID)

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: Dione Washington, Health Science Policy Analyst, Strategic Planning and Evaluation Branch, 5601 Fishers Lane, Room 5F32, Rockville, Maryland 20892, call 240–699–2100, or Email your request, including your address to: *washingtondi@niaid.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on September 25, 2017, page 44631 (82 FR 44631) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Institute of Allergy and Infectious Diseases (NIAID), 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: Generic Clearance to Conduct Formative Research (NIAID), 0925–NEW, National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this Generic is for information collections to improve research approaches and final product development to identify emergent infectious disease threats and comorbidities related to the needs of diverse audiences. The information to be collected as part of this generic clearance will allow the agency to make appropriate adjustments in content and methods used in developmental and testing stages in order to improve research approaches and final product development.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 34575.

ESTIMATED ANNUALIZED BURDEN HOURS

Research method	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden in hours
Focus Group Screeners	2,000	1	15/60	500
Interview Screeners/Surveys	2,000	1	15/60	500
Focus Groups	4,000	1	2	8,000
Pretesting	1,000	1	1	1,000
Dyad/Triad Interviews	4,000	1	90/60	6,000
In-depth Interviews (IDI)	6,000	1	90/60	9,000
Surveys	7,000	1	30/60	3,500
Patient questionnaires	4,500	1	30/60	2,250
Market research	300	1	4	1,200
Peer review with adult scientific professionals—mail/telephone/email surveys	4,500	1	30/60	2,250
Peer review with adult scientific professionals—focus groups	250	1	90/60	375
Total	35,550	35,550	.....	34,575

Dated: November 30, 2017.

Dione Washington,

Project Clearance Liaison, NIAID, NIH.

[FR Doc. 2017–26538 Filed 12–8–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with a short public comment period at the end. Attendance is limited by the space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will also be videocast and can be accessed from the NIH Videocasting and Podcasting Web site (*http://videocast.nih.gov*).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: January 18–19, 2018.

Closed: January 18, 2018, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1/2, D, F, G, 45 Center Drive, Bethesda, MD 20892.

Open: January 19, 2018, 8:30 a.m. to 12:00 p.m.

Agenda: For the discussion of program policies and issues; opening remarks; report of the Director, NIGMS; and other business of the Council.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1/2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, Ph.D., Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H, MSC6200, Bethesda, MD 20892–6200, (301) 594–4499, *hagana@nigms.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nigms.nih.gov/About/Council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: December 5, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26551 Filed 12–8–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development (NICHD); Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with

attendance limited to space available. A portion of this meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review and discussion of grant applications. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below in advance of the meeting.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: January 18, 2018.

Open: January 18, 2018.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: The agenda will include opening remarks, administrative matters, Director's Report, Division of Extramural Research Report and, other business of the Council.

Place: National Institutes of Health, Building 31, C-Wing, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: January 18, 2018.

Time: 1:00 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, C-Wing, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Della Hann, Ph.D., Director, Division of Extramural Research, *Eunice Kenney Shriver* National Institute of Child Health and Human Development, NIH, 6710 Rockledge Blvd., MSC 7002, Bethesda, MD 20892, 301–496–8535.

Any interested person may file written comments with the committee by forwarding the statement to the contact person listed on this notice. The statement should include the name, address, telephone number, and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles, will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

In order to facilitate public attendance at the open session of Council in the main meeting room, Conference Room 6, please contact Ms. Lisa Kaeser, Program and Public Liaison Office, NICHD, at 301–496–0536 to make your reservation, additional seating will be available in the meeting overflow rooms, Conference Rooms 7 and 8. Individuals will also be able to view the meeting via NIH Videocast. Select the following link for Videocast access instructions: *http://www.nichd.nih.gov/about/advisory/nachhd/Pages/virtual-meeting.aspx.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment program, National Institutes of Health, HHS).

Dated: December 5, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–26549 Filed 12–8–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2017–N151; FXES11130100000–189–FF01E00000]

U.S. Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits to conduct activities intended to enhance the propagation or survival of endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits certain activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA also requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, we must receive your written comments by January 10, 2018.

ADDRESSES: *Requesting Copies of Applications or Public Comments:* Copies of applications or public comments concerning any of the applications in this notice may be obtained by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552): Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

Submitting Comments: You may submit comments by one of the following methods. Please specify applicant name(s) and application number(s) to which your comments pertain (*e.g.,* TE–XXXXXX).

- *Email: permitsR1ES@fws.gov.* Please refer to the respective permit number (*e.g.,* Application No. TE–XXXXXX) in the subject line of your email message.
- *U.S. Mail:* Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Colleen Henson, Recovery Permits Coordinator, Ecological Services, (503) 231–6131 (phone); *permitsR1ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on applications for permits to conduct activities intended to promote recovery of endangered species. With some exceptions, the ESA prohibits certain activities with endangered species unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing these permits.

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, Tribes, Federal agencies and the public to comment on the following applications.

Application No.	Applicant	Species	Location	Take activity	Permit action
TE–043638	U.S. Army Garrison, Hawaii	Add the following species: ..... *Pleomele forbesii* (hala pepe), *Cyanea calycina* (haha), *Joinvillea ascendens ascendens* (‘ohe), *Korthalsella degeneri* (hulumoa), *Melicope christophersenii* (alani), *Melicope makahae* (alani), *Nothocestrum latifolium* (‘aiea), *Platydesma cornuta decurrens* (no common name), *Pteralyxia macrocarpa* (kaulu), *Sicyos lanceoloideus* (no common name), Orangeblack Hawaiian damselfly (*Megalagrion xanthomelas*), Anthricinan yellow-faced bee (*Hylaeus anthracinus*), Assimulans yellow-faced bee (*Hylaeus assimulans*), Easy yellow-faced bee (*Hylaeus facilis*), Hawaiian yellow-faced bee (*Hylaeus kuakea*), Hawaiian yellow-faced bee (*Hylaeus longiceps*), Hawaiian yellow-faced bee (*Hylaeus mana*).	Hawaii	Plants: Remove and reduce to possession, collect, propagate, outplant, establish genetic storage bank. Animals: Harass by survey, monitor, capture, identify, mark, release, collect, provide nest blocks.	Renew.
TE–72088A	National Oceanic and Atmospheric Administration Pacific Islands Fisheries Science Center, Honolulu, Hawaii.	Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*), Olive ridley sea turtle (*Lepidochelys olivacea*).	Hawaiian Islands, American Samoa Islands, Guam, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, Republic of Palau, and Pacific Remote Islands Areas.	Harass by survey, monitor, capture, hold, excavate nests, collect eggs, biosample, identify, tag, deploy data loggers in nests, attach biotelemetry devices and satellite transmitters, release, recapture, research, salvage.	Renew.
TE–53969C	University of Hawaii, Hilo, Hawaii.	*Bidens micrantha* ssp. *ctenophylla* (Ko‘oko‘olau).	Hawaii	Remove and reduce to possession; collect tissue, photograph.	New.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Contents of Public Comments

Please make your comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations.

Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority: Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 26, 2017.

Rolland G. White,

Assistant Regional Director—Ecological Services, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2017–26616 Filed 12–8–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0039]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection: Bioterrorism Preparedness Act: Entity/Individual Information

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until February 9, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kimberly A. Webber, Global Operations Section, CJIS Division Intelligence Group, Federal Bureau of Investigation, Criminal Justice Information Services Division, (CJIS), biometric Technology Center, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile 304–625–2198.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Federal Bureau of Investigation Bioterrorism Preparedness Act: Entity/Individual Information.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form is FD–961. The applicable component within the Criminal Justice Information Services Division, Department of Justice (DOJ), Federal Bureau of Investigation (FBI).

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, country, state, federal, individuals, business or other for profit, and not-for-profit institute. This collection is needed to receive names and other identifying information submitted by individuals requesting access to specific agents or toxins, and consult with appropriate officials of the Department of Health and Human Services and the Department of Agriculture as to whether certain individuals specified in the provisions should be denied access to or granted limited access to specific agents.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 4,635 (FY 2015) and respondents at 1 hour 45 minutes for the FD–961 form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is approximately 6,953 hours annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: December 6, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–26576 Filed 12–8–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0098]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice.

SUMMARY: The Department of Justice, Office of Community Oriented Policing Services, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until February 9, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lashon M. Hilliard, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530; Telephone number: 202–514–6563 (Note: this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office of Community Oriented Policing Services, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection:

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* COPS Application Package.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of Community Oriented Policing Services.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary respondents are Law Enforcement Agencies.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents is 5,000. The estimated hourly burden to the applicant is 11

hours for each respondent to review the instructions and complete the application.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 55,000 total annual burden hours associated with this collection.

If additional information is required contact: Jake Bishop-Green, Acting Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: December 5, 2017.

Jake Bishop-Green,

Acting Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–26536 Filed 12–8–17; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Draft Finding of No Significant Impact for the Proposed Rehabilitation or Replacement of Buildings at the Gulfport Job Corps Center, 3300 20th Street, Gulfport, Mississippi 39501

AGENCY: Office of Job Corps, Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL or Department), ETA, Office of Job Corps, is issuing a draft Finding of No Significant Impact (FONSI) regarding the proposed rehabilitation or replacement of buildings at the Gulfport Job Corps Center (JCC) in Gulfport, Mississippi.

DATES: To be ensured for consideration, comments must be submitted in writing on or before January 10, 2018.

ADDRESSES: Comments can be submitted by email to Marsha Fitzhugh at *fitzhugh.marsha@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Marsha Fitzhugh, Division of Facilities and Asset Management, Office of Job Corps, ETA, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–4463, Washington, DC 20210; Telephone (202) 693–3000 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Introduction

Established in 1964, Job Corps is a national program administered by ETA in the Department. It is the nation's largest federally-funded, primarily residential training program for youth ages 16–24. With 125 centers across the country, Job Corps seeks to change lives through education and job training for in-demand careers. Job Corps serves at-risk young people who seek to overcome barriers to employment, which can include poverty, homelessness, or aging out of the foster care system, by providing them with the academic, career technical, and employability skills to enter the workforce, enroll in post-secondary education, pursue apprenticeship opportunities, or enlist in the military.

The Gulfport JCC opened in 1978 utilizing buildings that were initially constructed in 1954 as a high school for African-American students, known as the 33rd Avenue High School. The three original high school buildings, which are considered eligible for inclusion on the National Register of Historic Places (NRHP), sustained extensive damage during Hurricane Katrina. As a result, the Gulfport JCC reopened with temporary facilities three and a half years after the storm. These three original buildings have not been rehabilitated.

II. Environmental Assessment and Draft Finding of No Significant Impact

Pursuant to the Council on Environmental Quality (CEQ) Regulations (40 Code of Federal Regulations [CFR] part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the DOL, ETA, and Office of Job Corps, in accordance with 29 CFR 11.11(d), give notice that an Environmental Assessment (EA) has been prepared for the proposed rehabilitation or replacement of buildings at the Gulfport Job Corps Center (JCC), Gulfport, Mississippi. The EA evaluated the potential environmental and socioeconomic impacts associated with the redevelopment of buildings at the Gulfport JCC. Three action alternatives and the No Action Alternative were evaluated in the EA. After careful consideration, it was determined that the Preferred Alternative, to retain the existing street-facing building façades and construct new buildings behind the façades, would best meet the purpose and need without causing significant environmental impacts. This Preferred Alternative would add approximately 93,000 gross square feet (GSF) of permanent, functional space at the Gulfport JCC.

The Preferred Alternative would retain the appearance of the historic structures by retaining the street-facing façades of Building 1, originally the main high school building, and Building 2, the gymnasium. New buildings would be constructed behind the façades to provide administration, educational, medical/dental, and recreation spaces that meet the needs of the Gulfport JCC and Job Corps program guidelines. Building 5, the cafeteria, would be demolished and replaced by a new, modern cafeteria, and a new building would be constructed for vocational training for shop-related trades and for storage and maintenance. The Preferred Alternative would result in a modern Job Corps instructional campus that meets the purpose of and need for the proposed action.

Under the Preferred Alternative, there would be adverse impacts on historic properties; however, adverse impacts would be resolved through mitigation. A Memorandum of Agreement (MOA) between DOL, the Advisory Council on Historic Preservation, and the City of Gulfport memorializing the steps necessary to mitigate the adverse effects cause by the Preferred Alternative for the Gulfport JCC redevelopment project was executed on September 19, 2017. Mitigation measures include retaining the street-facing façades of Buildings 1 and 2, with new buildings being constructed behind the façades; preparation of Historic American Building Survey (HABS) Level II, which would record the appearance and history of the buildings to be filed with the National Park Service for inclusion in the Library of Congress' HABS collection; an exhibit near the entrance to the new Main Building to preserve the memory of the 33rd Avenue High School and honor its alumni; and renaming the Gulfport JCC to memorialize the 33rd Avenue High School. Because adverse impacts on cultural resources would be resolved through mitigation, the Preferred Alternative would not result in significant impacts on cultural resources.

To comply with the CEQ requirement for ''early and meaningful public participation,'' the public was invited to meetings and encouraged to provide input throughout the process of developing the EA. A public scoping meeting was held on June 14, 2016, in Gulfport, to discuss the proposed project. Public comments received at the meeting were considered in the preparation of the EA. The Draft EA was provided to the public for a 30-day review and comment period. The availability of the EA for review was announced through a news release published in the *Sun Herald* on November 16, 2016, and a **Federal**

Register notice published on November 17, 2016. Additionally, the EA was available at the Gulfport Public Library and posted on the Job Corps Web site, and copies of the EA were mailed to key stakeholders. Comments received were addressed as part of the Section 106 consultation and incorporated into the MOA and the Final EA. A second public meeting was held on February 15, 2017, in the Gulfport City Council Chambers to present information on the Section 106 consultation. Forty-three citizens attended the meeting. Comments received were incorporated into the MOA.

The Draft Final EA and Draft FONSI will be available for public review and comment for a period of 30 days at the Gulfport Public Library, 1708 25th Avenue, Gulfport, MS 39501, and at *http://www.jobcorps.gov/home.aspx.*

Nancy M. Rooney,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 2017–26579 Filed 12–8–17; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Analysis of Alternative Strategies for Financing Unemployment Insurance (UI) Benefits When Trust Fund Balances Are Insufficient

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice of Information collection; request for comment.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents is properly assessed.

Currently, the Department of Labor is soliciting comments concerning the collection of data to support an analysis of alternative strategies for UI deficit financing. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 9, 2018.

ADDRESSES: You may submit comments by either one of the following methods:

Email: ChiefEvaluationOffice@dol.gov; Mail or Courier: Scott Gibbons, Chief Evaluation Office, OASP, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Scott Gibbons by email at *ChiefEvaluationOffice@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. *Background:* Historically, States have financed shortages in meeting obligations to pay UI benefits by borrowing from the Federal Unemployment Account (FUA) in the Unemployment Trust Fund (UTF) maintained by the United States Treasury. Over the last several recessionary cycles, an increasing number of States have opted to utilize private markets to make up UTF shortfalls, instead of taking traditional Federal loans. In this past recession, of the thirty-six States that needed to borrow funds to pay UI benefits, eight used private sector instruments (*i.e.,* seven States issued bonds and one State used short-term bank loans). Numerous considerations must be weighed in order to determine which option in financing UTF account deficits should be employed under what circumstances to result in an optimal outcome. However, there is little research examining or comparing the methods available to States for financing UTF account deficits, and specifically lacking is comprehensive research that analyzes the cost differences between taking Federal loans and using alternate sources. As a result, State UTF account administrators are in a position where they may need to make rapid decisions based on little evidence or understanding of available options.

DOL is sponsoring an analysis of costs related to UI deficit financing, and the planned data collection includes a qualitative interviews with Federal and state officials who play roles in the deficit financing process, as well as interviews with finance professionals and bond underwriters to understand their perspectives. This information will be used, along with materials from a literature search and environmental scan, to better understand the factors that influence state decisions between possible financing methods.

This **Federal Register** Notice provides the opportunity to comment on proposed data collection instruments that will be used during structured interviews to identify factors involved in decisions concerning which deficit financing methods are used, as well as describing the perceived benefits and potential challenges in their use.

II. *Desired Focus of Comments:* Currently, DOL is soliciting comments concerning the above data collection to support an analysis of alternative strategies for UI deficit financing. DOL is particularly interested in comments that do the following:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology-for example, permitting electronic submission of responses.

III. *Current Actions:* At this time, the Department of Labor is requesting clearance for structured interviews.

Type of Review: New information collection request.

OMB Control Number: 1290–0NEW.

Affected Public: State, professionals in public finance and public bond underwriters.

ESTIMATED TOTAL BURDEN HOURS

Instrument	Total number of respondents	Annual number of respondents	Number of Responses per respondent	Average burden per response (hours)	Annual estimated burden (hours)	Total estimated burden (hours)
State UI Directors	8	3	1	2	5.3	16
State officials/Senior Staff	8	3	1	1	2.7	8
Additional State staff	32	11	1	2	21.3	64
Bond market representatives	6	2	1	1	2.0	6
Unduplicated Totals	54	19			31.3	94

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 1, 2017.

Molly Irwin,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2017–26668 Filed 12–8–17; 8:45 am]

BILLING CODE 4510–HX–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, December 14, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA's Rules and Regulations, Emergency Mergers.
2. NCUA's Rules and Regulations, Agency Reorganization.

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Thursday, December 14, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Supervisory Action. Closed pursuant to Exemptions (7), (8), and (9)(ii).
2. Request under Section 205(d) of the Federal Credit Union Act. Closed pursuant to Exemption (6).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–26749 Filed 12–7–17; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meetings

DATE: Weeks of December 11, 18, 25, 2017, January 1, 8, 15, 2018.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of December 11, 2017—Tentative

Monday, December 11, 2017.

2:30 p.m. Affirmation Session (Public Meeting) (Tentative)
Florida Power & Light Co. (Turkey Point Nuclear Generating Units 6 and 7), Appeal of LBP–17–6 (Tentative)

Tuesday, December 12, 2017

9:00 a.m. Hearing on Combined Licenses for Turkey Point, Units 6 and 7: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting)
(Contact: Manny Comar: 301–415–3863)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of December 18, 2017—Tentative

There are no meetings scheduled for the week of December 18, 2017.

Week of December 25, 2017—Tentative

There are no meetings scheduled for the week of December 25, 2017.

Week of January 1, 2018—Tentative

There are no meetings scheduled for the week of January 1, 2018.

Week of January 8, 2018—Tentative

There are no meetings scheduled for the week of January 8, 2018.

Week of January 15, 2018—Tentative

Thursday, January 18, 2017

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines (Public Meeting)
(Contact: Damaris Marcano: 301–415–7328)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

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Additional Information

By a vote of 3–0 on December 6, 2017, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on December 11, 2017.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Patricia.Jimenez@*

nrc.gov or *Jennifer.BorgesRoman@nrc.gov.*

Dated: December 6, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–26705 Filed 12–7–17; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9083; NRC–2017–0036]

U.S. Army Installation Management Command; Davy Crockett M101 Depleted Uranium Spotting Rounds

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received an application from the U.S. Army Installation Management Command (Army) for amendment of Source Materials License No. SUC–1593 which authorizes possession only of depleted uranium (DU) from the Davy Crockett M101 spotting rounds. The amendment would allow the Army to correct sizing/scaling errors in Figure 1–2 of the Fort Polk, Fort Riley, and Pohakuloa Training Area (PTA) Site-Specific Environmental Radiation Monitoring Plan (ERMP) annexes to the Programmatic ERMP.

DATES: A request for a hearing or petition for leave to intervene must be filed by February 9, 2018.

ADDRESSES: Please refer to Docket ID NRC–2017–0036 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0036. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) 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.
- *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: Amy Snyder, Senior Project Manager, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6822, email: *Amy.Snyder@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

In an application dated June 1, 2017 (ADAMS Accession No. ML17158B356), the Army requested an amendment to correct sizing/scaling errors in Figure 1–2 of the Fort Polk, Fort Riley, and PTA Site-Specific ERMP annexes to the Programmatic ERMP, incorporated by reference in Source Materials License No. SUC–1593 (ADAMS Accession No. ML16343A164). In addition, the Army requested an amendment to the license that would allow the Army to make future changes to correct similar ''minor errors'' in annexes to the Programmatic ERMP without submittal of a license amendment request.

The staff completed its administrative acceptance review of the application and determined that the request to correct specific figure sizing/scaling errors in the identified Site-Specific ERMP annexes contains sufficient information for the staff to begin a detailed technical review. However, the staff determined that the Army's proposal to make similar future ''minor changes'' to annexes to the Programmatic ERMP without NRC approval did not contain enough information to accept the request for detailed technical review. In the staff's acceptance review letter (ADAMS Accession No. ML17226A205), the staff informed the Army that the staff will begin its detailed technical review of the changes to correct figure sizing/scaling errors in the Site-Specific ERMP annexes for Fort Polk, Fort Riley, and PTA.[1] In order to issue the requested amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in part 2 of title 10 of the *Code of Federal Regulations (10 CFR).* Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (1st floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the

[1] In the acceptance review letter, the NRC also informed the Army that if the Army wishes to pursue the change process portion of its license amendment request, it would need to supplement its application within 30 calendar days, by October 20, 2017, of the date of the acceptance review letter. If this supplementary information was not received by then, the staff would continue to process the license amendment request, to include the appropriate noticing in the **Federal Register,** without further consideration of the change process portion. The Army has not provided any supplemental information to date. As a result, the NRC will not consider the change process portion of the Army's June 1, 2017 amendment application.

bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket.

Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

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

For the Nuclear Regulatory Commission.

Stephen Koenick,

Chief, Materials Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–26603 Filed 12–8–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0116]

Information Collection: Public Records

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, ''Public Records.'' The NRC updated two forms integral to the agency's Freedom of Information Act (FOIA) process, NRC Form 509, ''Statement of Estimated Fees for Freedom of Information Act (FOIA) Request'' and NRC Form 507, ''Freedom of Information—Privacy Act Record Request Form.''

DATES: Submit comments by January 10, 2018.

ADDRESSES: Submit comments directly to the OMB reviewer at: Brandon F. DeBruhl, Desk Officer, Office of Information and Regulatory Affairs (3150–0043), 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–2017–0116 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–2017–0116.
- *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.* NRC Form 509 and NRC Form 507 are available in ADAMS under Accession Nos. ML17172A497 and ML17178A261, respectively. The supporting statement can be found in ADAMS under Accession No. ML17324A146.
- *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 the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. 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, 10 CFR part 9, ''Public Records.'' 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 22, 2017, 82 FR 44470.

1. *The title of the information collection:* 10 CFR part 9, ''Public Records.''

2. *OMB approval number:* 3150–0043.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 509; NRC Form 507.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* FOIA Requesters who have requests that require pre-payment or agree to pay for the processing of their FOIA requests.

7. *The estimated number of annual responses:* 2,490.

8. *The estimated number of annual respondents:* 2,490.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 1,111.

10. *Abstract:* The proposed information collection activity provides communication with FOIA requesters to have the opportunity to be notified about any fees to process their FOIA requests. Providing NRC Form 509 to a requester serves as notification of the processing fees as it relates to search, review, and duplication. Pursuant to NRC's regulations, 10 CFR 9.40, when fees exceed $ 25.00 the requester has the opportunity to re-scope their request. Additionally, in response to the FOIA Improvement Act of 2016, in accordance with 10 CFR 9.39, the revised form notifies the requester that if the agency fails to comply with statutory time limits, the agency cannot charge the requester any fees (except in unusual circumstances). In the event that fees are required, the requester can verify their willingness to pay on this form, and must submit payment within ten working days of the receipt of the form. In addition, the NRC created Form 507 which allows the public to electronically submit FOIA requests from the FOIA Web site. Unlike the previous online FOIA request submission form, requesters can provide identification verification at the time the request is made, which shortens the processing time.

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. 2017–26547 Filed 12–8–17; 8:45 am]

BILLING CODE 7590–01–P

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; Addition of New Turbine Building Sump Pumps

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 elements of the certification information of Tier 1 of the generic AP1000 design control document (DCD) and is issuing License Amendment Nos. 96 and 95 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc. (SNC), 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 6, 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 December 22, 2015, as revised by letters dated July 27, 2016, May 19, 2017, and the response to the staff's request for additional information dated August 31, 2017, (ADAMS Accession Nos. ML15356A655, ML16209A477, ML17139D394, and ML17243A459, respectively), titled, ''Addition of Two Turbine Building Sump Pumps,'' and designated License Amendment Request (LAR) 15–019.
- *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: William Gleaves, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5848; email: *Bill.Gleaves@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. 96 and 95 to COLs, NPF–91 and NPF–92, respectively, to the licensee. The exemption is required by paragraph A.4 of section III, ''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 (UFSAR) in the form of departures from the incorporated plant-specific DCD Tier 2 information and involves changes to COL Appendix C and COL Appendix A, Technical Specifications. The proposed changes revise the licensing basis documents to depart from COL Appendix C information (with corresponding changes to the associated plant-specific Tier 1 information) and associated changes to Tier 2 information in the VEGP UFSAR. The proposed

changes were to accommodate increased flow to the turbine building main sumps during condensate polishing system rinsing operations. SNC also requested related exemptions from the Commission's regulations.

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. ML17272A280.

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. ML17272A278 and ML17272A279, 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. ML17272A275 and ML17272A276, 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 December 22, 2015, as revised by letters dated July 27, 2016, May 19, 2017, and the response to the staff's request for additional information dated August 31, 2017, Southern Nuclear Operating Company requested from the Nuclear Regulatory Commission (NRC or Commission) an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, ''Design Certification Rule for the AP1000 Design,'' as part of LAR 15–019, ''Addition of New Turbine Building Sump Pumps.''

For the reasons set forth in Section 3.1 of the NRC staff's safety evaluation, which can be found at ADAMS Accession No. ML17272A280, 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 Licenses as described in the request dated December 22, 2015, as revised by letters dated July 27, 2016, May 19, 2017, and the response to the staff's request for additional information dated August 31, 2017. This exemption is related to, and necessary for, the granting of License Amendment Nos. 96 and 95, which is being issued concurrently with this exemption.

3. As explained in Section 6.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML17272A280, 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 December 22, 2015, as revised by letters dated July 27, 2016, May 19, 2017, and the response to the staff's request for additional information dated August 31, 2017 (ADAMS Accession Nos. ML15356A655, ML16209A477, ML17139D394, and ML17243A459, respectively), 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 July 5, 2017 (82 FR 31089). 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 December 22, 2015, as revised by letters dated July 27, 2016, May 19, 2017, and the response to the staff's request for additional information dated August 31, 2017.

The exemption and amendment were issued on November 6, 2017, as part of a combined package to the licensee (ADAMS Accession No. ML17272A272).

Dated at Rockville, Maryland, this 6th 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. 2017–26602 Filed 12–8–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Survivor Annuity Election for a Spouse, RI 20–63; Cover Letter Giving Information About the Cost To Elect Less Than the Maximum Survivor Annuity, RI 20–116; Cover Letter Giving Information About the Cost To Elect the Maximum Survivor Annuity, RI 20–117

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other

Federal agencies the opportunity to comment on a revised information collection, Survivor Annuity Election for a Spouse, RI 20–63; Cover Letter Giving Information About the Cost to Elect Less Than the Maximum Survivor Annuity, RI 20–116; Cover Letter Giving Information About the Cost to Elect the Maximum Survivor Annuity, RI 20–117.

DATES: Comments are encouraged and will be accepted until January 10, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0174) was previously published in the **Federal Register** on May 8, 2017, at 82 FR 21433, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 20–63 is used by annuitants to elect a reduced annuity with a survivor annuity for their spouse. Form RI 20–116 is a cover letter for RI 20–63 giving information about the cost to elect less than the maximum survivor annuity. This letter is used to supply the information requested by the annuitant about the cost of electing less than the maximum annuity. Form RI 20–117 is a cover letter for RI 20–63 giving information about the cost to elect the maximum survivor annuity.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Survivor Annuity Election for a Spouse; Cover Letter Giving Information about the Cost to Elect Less Than the Maximum Survivor Annuity; Cover Letter Giving Information about the Cost to Elect the Maximum Survivor Annuity.

OMB Number: 3206–0174.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: RI 20–63 = 2,400; RI 20–116 & RI 20–117 = 200.

Estimated Time per Respondent: 55 Minutes [RI 20–63 = 45 minutes; RI 20–116 & RI 20–117 = 10 minutes].

Total Burden Hours: 1,834.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26613 Filed 12–8–17; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Marital Status Certification Survey, RI 25–7

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR), Marital Status Certification Survey, RI 25–7.

DATES: Comments are encouraged and will be accepted until February 9, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Alberta Butler, Room 2347–E, or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0033). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 25–7 is used to determine whether widows, widowers, and former spouses receiving survivor annuities from OPM have remarried before reaching age 55 and, thus, are no longer eligible for benefits.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Marital Status Certification Survey.

OMB Number: 3206–0033.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 24,000.

Estimated Time Per Respondent: 15 minutes.

Total Burden Hours: 6,000 hours.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26611 Filed 12–8–17; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: CyberCorps®: Scholarship for Service (SFS) Registration Web Site

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Office of Personnel Management (OPM), Staff Acquisition Group, offers the general public and other Federal agencies the opportunity to comment on an emergency processing request for reinstatement, without change, of a previously approved information collection request (ICR) 3206–0246, Scholarship for Service Program Registration Web site, for which approval has expired. The Cyber Corps®: Scholarship for Service (SFS) program is designed to help Federal agencies find the talent they need to protect the government's critical information infrastructure. This program provides scholarships to students in cybersecurity fields in exchange for government service upon graduation. OPM is requesting the Office of Management and Budget (OMB) take action on the information collection reinstatement within five (5) calendar days of the request.

DATES: Comments are encouraged and will be accepted until February 9, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Personnel Management, Mid-Atlantic Services Branch, 200 Granby Street, Suite 500, Norfolk, VA 23510–1886, Attention: Stephanie Travis or sent via electronic mail to *sfs@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Mid-Atlantic Services Branch, 200 Granby Street, Suite 500, Norfolk, VA 23510–1886, Attention: Stephanie Travis or sent via electronic mail to *sfs@opm.gov.*

SUPPLEMENTARY INFORMATION: This notice announces OPM has submitted to OMB a request for emergency review of a previously approved information collection request (ICR) 3206–0246, Scholarship for Service Program Registration Web site. OPM requests OMB take action on this reinstatement within five (5) calendar days of receiving the request. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (ICR 3206–0246). OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Scholarship for Service Program was established by the National Science Foundation (NSF), in collaboration with the Office of Personnel Management (OPM) and the Department of Homeland Security (DHS), in accordance with the Cybersecurity Enhancement Act of 2014 (Pub. L. 113–274). NSF partners with OPM's Human Resources Solutions (HRS), under a reimbursable agreement, to support this initiative by administering the program. This initiative reflects the critical need for Information Technology (IT) professionals, industrial control system security professionals, and security managers in Federal, State, local and tribal governments. Students identified by their institutions for SFS Scholarships must meet selection criteria based on prior academic performance, likelihood of success in obtaining the degree, and suitability for government employment. Upon graduation, scholarship recipients are required to work a period equal to the length of their scholarship in Federal, State, Local or Tribal Government or in other approved organization as cybersecurity professionals. Approval of the Web page is necessary to facilitate the timely registration, selection and placement of program-enrolled students in Government agencies. OPM has taken all practicable steps to consult with Federal agency stakeholders and the public to minimize the burden of this information collection request. OPM conducted a Privacy Impact Assessment on May 3, 2017.

Analysis

Agency: CyberCorps®: Scholarship for Service Program, Staff Acquisition Group, Office of Personnel Management.

Title: Scholarship for Service (SFS) Program Internet Site.

OMB Number: 3206–0246.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 630.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 630 hours.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26614 Filed 12–8–17; 8:45 am]

BILLING CODE 6325–43–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Application To Make Deposit or Redeposit (CSRS)—SF 2803 and Application To Make Service Credit Payment for Civilian Service (FERS)—SF 3108

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection, Application to Make Deposit or Redeposit (CSRS)—SF 2803 and Application to Make Service Credit Payment for Civilian Service (FERS)—SF 3108.

DATES: Comments are encouraged and will be accepted until January 10, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the

Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0134) was previously published in the **Federal Register** on April 13, 2017, at 82 FR 17891, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SF 2803, Application to Make Deposit or Redeposit (CSRS) and SF 3108, Application to Make Service Credit Payment for Civilian Service (FERS), are applications to make payment used by persons who are eligible to pay for Federal service which was not subject to retirement deductions which were subsequently refunded to the applicant.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application to Make Deposit or Redeposit (CSRS), and Application to Make Service Credit Payment for Civilian Service (FERS).

OMB Number: 3206–0134.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 150.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 75.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–26612 Filed 12–8–17; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–42 and CP2018–72; MC2018–43 and CP2018–73; MC2018–44 and CP2018–74]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 13, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2018–42 and CP2018–72; *Filing Title:* USPS Request to Add Priority Mail Contract 382 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 5, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* December 13, 2017.

2. *Docket No(s).:* MC2018–43 and CP2018–73; *Filing Title:* USPS Request to Add Priority Mail Contract 383 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 5, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Curtis E. Kidd; *Comments Due:* December 13, 2017.

3. *Docket No(s).:* MC2018–44 and CP2018–74; *Filing Title:* USPS Request to Add Parcel Select Contract 26 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 5, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Curtis E. Kidd; *Comments Due:* December 13, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–26615 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 6, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 384 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–45, CP2018–75.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26588 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 6, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 54 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–46, CP2018–76.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26589 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 6, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 64 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–48, CP2018–78.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26667 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 6, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 385 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–47, CP2018–77.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26666 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 5, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 383 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–43, CP2018–73.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26587 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 5, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 382 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–42, CP2018–72.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26586 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 11, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 5, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Parcel Select Contract 26 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–44, CP2018–74.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–26590 Filed 12–8–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82221; File No. SR–OCC–2017–805]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection To Advance Notice Filing Concerning the Use of the Society of Worldwide Interbank Financial Telecommunication ("SWIFT") Messaging Network in OCC's Cash Settlement Process

December 5, 2017.

The Options Clearing Corporation (''OCC'') filed on October 10, 2017 with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2017–805 (''Advance Notice'') pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 [2] (''Exchange Act'') to propose changes to the current process OCC uses to conduct cash settlement with Clearing Members [3] by requiring Clearing Banks to integrate the use of the Society of Worldwide Interbank Financial Telecommunication (''SWIFT'') messaging network. The proposed changes are intended to enhance the resiliency, efficiency, and consistency of the cash settlement process and thereby mitigate risks that are associated with the existing cash settlement process. The Advance Notice was published for comment in the **Federal Register** on November 17, 2017.[4] The Commission has not received any comments on the Advance Notice to date. This publication serves as notice of no objection to the Advance Notice.

I. Background

In connection with OCC's performance of clearance and settlement services, OCC and its Clearing Members are obligated to perform cash settlement functions pursuant to OCC's By-Laws and Rules. For example, a Clearing Member may be obligated to pay OCC the premium for a cleared contract, or OCC may be obligated to pay a Clearing Member the settlement value of a cleared contract.[5] The cash settlement process for these and other clearance and settlement services is facilitated by Clearing Banks, which are banks or trust companies that have entered agreements with OCC to settle on behalf of Clearing Members and at which OCC and Clearing Members each maintain accounts.[6] Currently, there are eight Clearing Banks with which OCC effects cash settlements through the ENCORE clearing system (''OCS'').[7]

OCC generates settlement instructions associated with Cleared Contracts and Stock Loans of Clearing Members by running specific predefined settlement profiles [8] throughout the day. These settlement instructions are categorized as either start-of-day instructions or intra-day instructions. The resulting settlement instructions are generally transmitted by OCC to Clearing Banks by way of OCS, at which point the Clearing Banks are able to view batches of settlement instructions within OCS.[9] Clearing Bank staff review the settlement instructions by logging into OCS and opening the settlement batch.[10]

[1] 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated OCC a systemically important financial market utility (''SIFMU'') on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, OCC is required to comply with the Payment, Clearing and Settlement Supervision Act and file advance notices with the Commission.

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Unless specified otherwise, capitalized terms shall have the meaning OCC ascribes in its By-Laws and Rules.

[4] Notice of Filing of Advance Notice Concerning the use of the Society of Worldwide Interbank Financial Telecommunication Messaging Network in OCC's Cash Settlement Process, Exchange Act Release No. 82055 (Nov. 13, 2017), 82 FR 54448 (Nov. 17, 2017) (''Notice of Filing of Advance Notice'').

[5] *See* Article VI, Section 4 of OCC's By-Laws (Obligations of Purchasing Clearing Members); *see also* Chapter V of OCC's Rules (Daily Cash Settlement); Article VI, Section 6.01 of OCC's By-Laws (requiring, among other things, that OCC be substituted through novation as the buyer of every seller and seller to every buyer with respect to obligations owing to persons having positions in cleared contract); Article I, Section 1.S.(16) of OCC's By-Laws (defining the term ''settlement time'').

[6] *See* OCC Rule 101.C.(1) (defining the term ''clearing bank'' to mean ''a bank or trust company which has entered into an agreement with [OCC] in respect of settlement of confirmed trades on behalf of Clearing Members.'').

[7] *See generally* OCC Completes Second Major Installation of Encore™ Clearing System (November 25, 2002) *available at https://www.theocc.com/about/newsroom/releases/2002/11_25.jsp.*

[8] Predefined settlement profiles are programmed to track various types of obligations to pay or collect cash in connection with Cleared Contracts and Stock Loans that are in turn used to generate settlement instructions.

[9] A settlement batch is a set of individual debit or credit settlement instructions that may either instruct a Clearing Bank to move funds to or from an OCC settlement account or to or from a Clearing Member's account at the same Clearing Bank.

[10] One of the Clearing Banks, however, currently does not utilize OCS as its primary means of effecting cash settlement. Instead, the Clearing Bank primarily receives settlement instructions from OCC via facsimile, reviews the settlement instructions, approves or rejects them, and then returns a

Each Clearing Bank has entered into a Cash Settlement Procedures Agreement (''CSPA'') with OCC that details the substantive rights and responsibilities of the parties and specifies operational procedures for which they are responsible regarding start-of-day and intra-day settlement instructions. This process includes prescribed communication methods and settlement procedures, including a requirement that the Clearing Bank act upon the settlement instructions before a defined settlement time. If a Clearing Bank does not expressly accept or reject a settlement instruction by the specified settlement time, the Clearing Bank is deemed to have accepted the instruction.

The processes agreed to in the CSPAs currently are conducted via OCS because the SWIFT messaging network is available for cash settlement processes in narrow circumstances only. For example, OCC states that SWIFT is available to Clearing Members to deposit letters of credit for margining purposes provided: (i) They are denominated in U.S. dollars, (ii) they are issued by banks or trust companies, (iii) they are approved by OCC as margin assets, and (iv) the issuer of any such letter of credit submits amendments to OCC using the SWIFT network. OCC states that it manages this process through a SWIFT system that interfaces with OCC's OCS so that OCC is able to track and process the amendment messages.[11]

The proposals set forth in OCC's Advance Notice would change its current cash settlement process with Clearing Members by: (i) Requiring Clearing Banks to expand the use of the SWIFT messaging network, and (ii) creating a new standardized CSPA template. Collectively, OCC believes these changes would improve OCC's resiliency, efficiency, and consistency, thereby mitigating risks.[12] The specifics of the proposals are described in detail below.

II. Description of the Advance Notice

A. Proposed Change To Increase SWIFT Utilization

OCC's Advance Notice states that the changes to its cash settlement process are intended to improve OCC's current cash settlement process by implementing the SWIFT messaging network as the primary means of transmitting daily cash settlement between OCC and the Clearing Banks. Currently, OCS requires Clearing Banks to process aspects of the cash settlement process manually, including logging into OCS to reject settlement instructions or to accept in instances where Clearing Banks opt to actively accept settlement instructions prior to the specified settlement time. These requirements result in inconsistent operational practices across Clearing Banks since OCS is a proprietary online cash settlement system and not all Clearing Banks use OCS consistently.[13] Furthermore, the manual processing steps introduce risks for error and can result in elongated times for processing, response, and approval. Requiring all of the Clearing Banks to integrate the use of SWIFT into their operations facilitating OCC's cash settlement with Clearing Members would eliminate the facsimile, telephone, and email communications as primary communication methods for settlement processing while harmonizing the cash settlement process across all Clearing Banks.

Due to the automated nature of the SWIFT messaging network, OCC believes that implementing SWIFT would reduce manual processing and approval steps. For instance, settlement instructions would be automatically transmitted to Clearing Banks over the SWIFT network so that Clearing Bank staff would not need to log into OCS to accept or reject them. Similarly, OCC automatically would receive any acceptances provided.[14] In addition, OCC could monitor all cash-settlement related SWIFT messages it sends or receives.

Accordingly, OCC believes that the proposed changes would increase the efficiency, accuracy, and resiliency of OCC's cash settlement process while eliminating certain risks inherent in both having Clearing Banks using different systems that employ manual processes. In addition, OCC states that the changes would adopt communication procedures and standards that are internationally accepted and therefore are consistent with the requirements in Rule 17Ad-22(e)(22) under the Exchange Act.[15]

B. Proposed Changes to CSPA

The CSPA is the principal form of agreement that: (i) Governs the rights and responsibilities of OCC and each Clearing Bank, (ii) details operational procedures (including backup procedures) and security protocols, and (iii) identifies individuals at OCC and at the Clearing Bank who are authorized to act on behalf of each party with respect to cash settlement instructions. According to OCC, the CSPAs currently in effect between OCC and its Clearing Banks were implemented over many years as OCC's operations expanded and it became appropriate to maintain service agreements with a range of Clearing Banks. In addition, many of OCC's CSPAs have not been renegotiated in a long time. Accordingly, OCC states that there are substantial deviations among some of the terms and conditions of the respective CSPAs and the corresponding Clearing Bank practices.

As a part of the transition to SWIFT, Clearing Banks would enter into new CSPAs with OCC. Each CSPA would be based on a standardized template developed by OCC in collaboration with its Clearing Banks. Each CSPA would establish various deadlines for OCC and the Clearing Bank as well as backup procedures.[16] OCC believes that the renegotiation of the CSPAs with the Clearing Banks to accommodate the adoption of the SWIFT messaging network as the primary process to support daily cash settlement also would allow the agreements to be updated to ensure their uniform compliance with the requirements in Rule 17Ad–22(e)(22).[17]

III. Discussion and Commission Findings

Although the Payment, Clearing and Settlement Supervision Act of 2010 (''Act'') does not specify a standard of review for an advance notice, the stated purpose of the Act is instructive.[18] The stated purpose of the Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs and strengthening the liquidity of SIFMUs.[19]

Section 805(a)(2) of the Act[20] authorizes the Commission to prescribe regulations containing risk-management

facsimile confirmation to OCC. After receipt of the confirmation, OCC staff manually enters the approvals or rejections into OCS. This Clearing Bank will transfer to the SWIFT messaging network after implementation of the proposals described herein.

[11] *See* Notice of Filing of Advance Notice.

[12] *See* Notice of Filing of Advance Notice for a more detailed description of the specific rule changes OCC is proposing.

[13] *See supra* note 10.

[14] If a Clearing Bank fails to accept the settlement instructions, OCC would follow up with the Clearing Bank to determine the reason no acceptance was provided and to coordinate with the Clearing Bank that appropriate action is taken with respect to the instructions.

[15] 17 CFR 240.17Ad–22(e)(22).

[16] A key change is that Clearing Banks would not be deemed to have accepted settlement instructions in the absence of a communication.

[17] 17 CFR 240.17Ad–22(e)(22).

[18] *See* 12 U.S.C. 5461(b).

[19] *Id.*

[20] 12 U.S.C. 5464(a)(2).

standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency. Section 805(b) of the Act [21] provides the following objectives and principles for the Commission's risk-management standards prescribed under Section 805(a):

- To promote robust risk management;
- To promote safety and soundness;
- To reduce systemic risks; and
- To support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk-management standards may address such areas as risk-management and default policies and procedures, among others areas.[22]

The Commission has adopted risk-management standards under Section 805(a)(2) of the Act and the Exchange Act (the ''Clearing Agency Rules'').[23] The Clearing Agency Rules require each covered clearing agency, among other things, to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for operations and risk-management practices on an ongoing basis. As such, it is appropriate for the Commission to review advance notices for consistency with the objectives and principles for risk-management standards described in Section 805(b) of the Act and the Clearing Agency Rules.

A. Consistency With Section 805(b) of the Payment, Clearing and Settlement Supervision Act

The Commission believes each proposal in OCC's Advance Notice is consistent with promoting robust risk management, promoting safety and soundness, reducing systemic risks, and supporting the stability of the broader financial system, the stated objectives and principles of Section 805(b) of the Act.[24]

First, the Commission believes that OCC's proposal to implement the SWIFT messaging network as the primary means of transmitting cash settlement instructions between OCC and each Clearing Bank is consistent with promoting safety and soundness. The Commission agrees with OCC's analysis that usage of the SWIFT messaging network would mitigate risks that arise in the existing cash settlement process due to manual processing steps and inconsistent practices across OCC's Clearing Banks. By having an automated and standardized process that sends automatic messages without requiring Clearing Bank staff members to log into OCS to manually accept or reject settlement instructions, the Commission further believes the proposal would enhance the resiliency, efficiency, and consistency of OCC's cash settlement process. The Commission therefore believes this specific proposal is consistent with promoting safety and soundness.

Second, the Commission believes that OCC's proposal to update, enhance and standardize a uniform set of CSPAs between OCC and each Clearing Bank would promote robust risk management. Specifically, the Commission believes that this proposal will reduce the risk of settlement delay or error that may arise due to each Clearing Bank operating according to disparate CSPA terms and requirements. The Commission therefore believes this specific proposal is consistent with promoting robust risk management.

Consistent with the conclusions discussed above, the Commission also believes that OCC's proposal is consistent with supporting the broader stability of the financial system. Specifically, the Commission believes that promoting the prompt and accurate messaging between OCC and the Clearing Banks would promote safety and soundness of both OCC and Clearing Banks. The reduction in errors and delays arising from the proposed implementation of SWIFT and more harmonized CSPAs would also enhance the reliability and resilience of OCC's cash settlement process for Clearing Members, thereby decreasing systemic risks. Accordingly, the proposed changes would support the stability of the broader financial system. Thus, the Commission believes that the proposals contained in the Advance Notice are consistent with the stated objectives and principles of Section 805(b) of the Act.

B. Consistency With Rule 17Ad–22(e)(22) Under the Exchange Act

The Commission further believes that OCC's proposals in the Advance Notice are consistent with the Covered Clearing Agency Standards, specifically Rule 17Ad–22(e)(22) under the Exchange Act.[25] Rule 17Ad–22(e)(22) requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, ''use, or at a minimum, accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.'' [26] In adopting this requirement, the Commission stated that, ''[r]elevant internationally accepted communication procedures and standards could include messaging standards such as SWIFT, FIX and FpML.'' [27] Accordingly, the Commission believes that the proposals to expand the usage of the SWIFT messaging network and standardize the CSPAs with each Clearing Bank pursuant to the SWIFT messaging network implementation are consistent with Rule 17Ad–22(e)(22) under the Exchange Act.

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(G) of the Payment, Clearing and Settlement Supervision Act,[28] that the Commission *does not object* to Advance Notice (SR–OCC–2017–805) and that OCC is *authorized* to implement the proposed change.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26554 Filed 12–8–17; 8:45 am]

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[21] 12 U.S.C. 5464(b).

[22] 12 U.S.C. 5464(c).

[23] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). The Commission established an effective date of December 12, 2016, and a compliance date of April 11, 2017, for the Covered Clearing Agency Standards. On March 4, 2017, the Commission granted covered clearing agencies a temporary exemption from compliance with Rule 17Ad–22(e)(3)(ii) and certain requirements in Rules 17Ad–22(e)(15)(i) and (ii) until December 31, 2017, subject to certain conditions. OCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[24] 12 U.S.C. 5464(b).

[25] 17 CFR 240.17Ad–22(e)(22).

[26] *Id.*

[27] Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70842 at n. 510 (October 13, 2016).

[28] 12 U.S.C. 5465(e)(1)(G).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82219; File No. SR–Phlx–2017–95]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 3304

December 5, 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 PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add additional detail about the purposes for which Nasdaq PSX (''PSX'') uses securities information processor data pursuant to Rule 3304, and to make other technical corrections to that rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to add additional detail about the purposes for which the Exchange uses securities information processor (''SIP'') data pursuant to Rule 3304, and to make other technical corrections to that rule. Rule 3304 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 PSX trading system utilizes proprietary market data as the Primary Source of quotation data for the following markets that provide a reliable direct feed: Nasdaq, 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 3304 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 3304 to provide that the PSX 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 3304 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 3304. 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

[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 3304 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).

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 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 3304, 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 3304 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 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 3304. 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.

[10] *See* IEX Rule 11.410(a)(3).

[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, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–95 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–95. 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–Phlx–2017–95 and should be submitted on or before January 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26555 Filed 12–8–17; 8:45 am]

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[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82216; File No. SR–CboeBZX–2017–006]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of a Series of the Cboe Vest S&P 500 Enhanced Growth Strategy ETF Under the ETF Series Solutions Trust, Under Rule 14.11(c)(3), Index Fund Shares

December 5, 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 21, 2017, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to list and trade shares of a series of the Cboe Vest S&P 500® Enhanced Growth Strategy ETF under the ETF Series Solutions Trust (the ''Trust''), under Rule 14.11(c)(3) (''Index Fund Shares'').

The text of the proposed rule change is available at the Exchange's Web site at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange proposes to list and trade shares (''Shares'') of each series of the Cboe Vest S&P 500® Enhanced Growth Strategy ETF (each a ''Fund'' and, collectively, the ''Funds'') under Rule 14.11(c)(3), which governs the listing and trading of Index Fund Shares based on equity securities indexes on the Exchange. In total, the Exchange is proposing to list and trade Shares of twelve monthly series of the Cboe Vest S&P 500® Enhanced Growth Strategy ETF. Each Fund will be an index-based exchange traded fund (''ETF''). The Funds will include the following: Cboe Vest S&P 500® Enhanced Growth Strategy (January) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (February) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (March) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (April) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (May) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (June) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (July) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (August) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (September) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (October) ETF; Cboe Vest S&P 500® Enhanced Growth Strategy (November) ETF; and Cboe Vest S&P 500® Enhanced Growth Strategy (December) ETF. Each Fund will be based on the Cboe S&P 500 Enhanced Growth Index (Month) Series, where ''Month'' is the corresponding month associated with the roll date of the applicable Fund (each an ''Index'' and, collectively, the ''Indexes'').

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on February 9, 2012. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Funds on Form N–1A (''Registration Statement'') with the Commission.[3] The Funds'

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Registration Statement on Form N–1A for the Trust, dated October 27, 2017 (File Nos. 333–179562 and 811–22668). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration

Continued

adviser, Cboe Vest Financial, LLC (the ''Adviser''), and index provider, Cboe Exchange, Inc. (''Cboe Options'' or the ''Index Provider''), are not registered as broker-dealers, but are affiliated with a broker-dealer. The Index Provider has implemented and will maintain a ''fire wall'' with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the Indexes. In addition, Index Provider personnel who make decisions regarding the Index composition or methodology are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Index, pursuant to Rule 14.11(c)(3)(B)(iii). The Adviser has also implemented and will maintain a ''fire wall'' with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the portfolio. In addition, Adviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding a Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer; or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer; it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange also notes that the Adviser is a BZX Affiliate as defined in Rule 14.3(e)(1)(A),[4] but the Funds are not Affiliate Securities, as defined in Rule 14.11(e)(1)(B),[5] and are therefore not subject to the additional requirements applicable to Affiliate Securities because such definition explicitly excludes Index Fund Shares. The Funds intend to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

Each Fund's investment objective is to track, before fees and expenses, the performance of its respective Index. The value of each Index is calculated daily by Cboe Options utilizing an option valuation model. The Exchange is submitting this proposed rule change because the Indexes for the Funds do not meet the listing requirements of Rule 14.11(c)(3) applicable to an index that consists of equity securities (and with respect to this underlying index, an index that consists of options on an index of U.S. Component Stocks),[6] which requires that each component of an index be a U.S. Component Stock. As further described below, the Indexes consist of options on an index of U.S. Component Stocks. Because the Indexes consist of options based on an index of U.S. Component Stocks (the S&P 500 Index) and Rule 14.11(c)(3)(A)(i) applies only to U.S. Component Stocks (that is, the rule provides criteria for an index composed of equity securities and not for an index that includes options on an index of equity securities), it does not meet the criteria set forth in Rule 14.11(c)(3). As such, the Exchange submits this proposal to list the Shares on the Exchange.

Cboe Vest S&P 500® Enhanced Growth Strategy ETF

Each Index is a rules-based options index that consists exclusively of FLexible EXchange Options on the S&P 500 Index (''FLEX Options'') listed on Cboe Options.[7] The Indexes are designed to provide exposure to the large capitalization U.S. equity market with similar volatility and downside risks to traditional equity indices, but higher upside potential in market environments with modest gains over the course of one year. On a specified day of the applicable month for each Index (the ''Roll Date''),[8] the applicable Index implements a portfolio of put and call FLEX Options with expirations on the next Roll Date that, if held to such Roll Date, seeks to match any decline in the value of the S&P 500 Index, while providing enhanced appreciation of twice the positive return of the S&P 500 Index up to a maximum capped gain in the value of the S&P 500 Index (the ''Capped Level''). The Capped Level is calculated as of each Roll Date based on the prices of the applicable FLEX Options, such that the value of the portfolio of FLEX Options that comprises each Index is equivalent to the value of a portfolio comprised of the S&P 500 Index constituents. As of the 2017 Roll Date, the Capped Level for the January Index was 18%, meaning that the January Index is designed to provide twice the positive return of the S&P 500 Index up to a maximum 18% gain in the value of the Index (9% gain in the value of the S&P 500 Index) from the 2017 Roll Date to the 2018 Roll Date, but to not provide any participation for gains in the value of the S&P 500 Index in excess of 9% (*i.e.,* no opportunity for gains in the value of the Index in excess of 18%).

Each Index is designed to provide the following outcomes between Roll Dates:

- *If the S&P 500 declines any amount:* The Index declines the same amount as the S&P 500 Index;
- *If the S&P 500 appreciates between 0% and half of the Capped Level:* The Index appreciates twice the amount as the S&P 500 Index (*e.g.,* if the S&P 500 Index returns 7%, the Index is designed to return 14%); and
- *If the S&P 500 appreciates more than half of the Capped Level:* The Index appreciates the same amount as the Capped Level.

Each Index includes a mix of purchased and written (sold) put and call FLEX Options structured to achieve the results described above. Such results are only applicable for each full 12-month period from one Roll Date to the next Roll Date, and the Index may not return such results for shorter or longer periods. The value of each Index is calculated daily by Cboe Options utilizing a rules-based options valuation model.

Statement. The Commission has not yet issued an order granting exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) applicable to the activities of the Funds, but the Funds will not be listed on the Exchange until such an order is issued and any conditions contained therein are satisfied.

[4] As defined in Rule 14.3(e)(1)(A), the term ''BZX Affiliate'' means the Exchange and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Exchange, where ''control'' means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

[5] As defined in Rule 14.3(e)(1)(B), the term ''Affiliate Security'' means any security issued by a BZX Affiliate or any Exchange-listed option on any such security, with the exception of Portfolio Depository Receipts as defined in Rule 14.11(b) and Index Fund Shares as defined in Rule 14.11(c).

[6] As defined in Rule 14.11(c)(1)(D), the term ''U.S. Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

[7] More information about the Indexes and methodology is available on the Index Provider's Web site at *www.cboe.com.*

[8] As described above, each of the twelve Indexes are designed to provide returns over a defined year long period and, thus, there is an Index associated with each month. As such, the Roll Date for a specific Index is dependent on the monthly series for which the index is associated. For example, the Roll Date for the Cboe® S&P 500® Enhanced Growth Index January Series is in January and the Roll date for the Cboe® S&P 500® Enhanced Growth Index February Series is in February, a pattern which continues through the rest of the calendar year.

Fund Holdings

Under Normal Market Conditions,[9] each Fund will seek to track the total return performance, before fees and expenses, of its respective Index. Under Normal Market Conditions, each Fund will invest all, or substantially all, of its assets in the FLEX Options that make up each respective underlying Index, standardized U.S. exchange-listed options contracts based on the S&P 500 (''S&P 500 Index Options''), U.S. exchange-listed options based on one or more ETFs [10] that track the performance of the S&P 500 Index and have the same economic characteristics as the FLEX Options that make up each Index (''Comparable ETF Options''),[11] as well as cash and cash equivalents.[12] Under Normal Market Conditions, at least 80% of each Fund's total assets (exclusive of any collateral held from securities lending) will be invested in the FLEX Options that make up the Index. The Funds will hold only FLEX Options, standardized exchange-listed options on the S&P 500 Index, Comparable ETF Options, and cash and cash equivalents. The FLEX Options owned by each Fund will have the same terms (*i.e.* same strike price and expiration) for all investors of that Fund within an outcome period. The Capped Level is determined with respect to the applicable Index on the inception date of the applicable Fund and at the beginning of each outcome period.

S&P 500 Index Options

The market for S&P 500 Index Options traded on Cboe Options, including FLEX Options, is among the most liquid markets in the world. FLEX Options are a subset of S&P 500 Index options traded on Cboe Options.[13] In 2016, 1,023,623 options contracts on the S&P 500 Index were traded per day on Cboe Options, which is more than $200 billion in notional volume traded on a daily basis.[14] While FLEX Options are traded differently than traditional options contracts, the Exchange believes that the liquidity and arbitrage opportunities of the S&P 500 Index bolsters the market for FLEX Options, as described below.

Every FLEX Option order submitted to Cboe Options is exposed to a competitive auction process for price discovery. The process begins with a request for quote (''RFQ'') in which the interested party establishes the terms of the FLEX Options contract. The RFQ solicits interested market participants, including on-floor market makers, remote market makers trading electronically, and member firm traders, to respond to the RFQ with bids or offers through a competitive process. This solicitation contains all of the contract specifications-underlying, size, type of option, expiration date, strike price, exercise style and settlement basis. During a specified amount of time, responses to the RFQ are received and at the end of that time period, the initiator can decide whether to accept the best bid or offer. The process occurs under the rules of Cboe Options which means that customer transactions are effected according to the principles of a fair and orderly market following trading procedures and policies developed by Cboe Options.

Additional Discussion

The Exchange believes that sufficient protections are in place to protect against market manipulation of each Fund's Shares and S&P 500 Index Options and Comparable ETF Options for several reasons: (i) the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; [15] (ii) the competitive quoting process for FLEX Options; [16] (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options and the Financial Industry Regulatory Authority (''FINRA'') designed to detect violations of the federal securities laws and self-regulatory organization (''SRO'') rules.

Trading in the Shares and the underlying investments will be subject to the federal securities laws and Exchange, Cboe Options, FINRA, and, with respect to the Comparable ETF Options, other U.S. options exchanges' rules and surveillance programs.[17]

The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of FLEX Options on the S&P 500 Index, will be acquired in extremely liquid and highly regulated markets,[18] the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the

[9] The term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[10] For purposes of this proposal, the term ETF means Portfolio Depositary Receipts and Index Fund Shares as defined in Rule 14.11(b) and 14.11(c), respectively, and their equivalents on other national securities exchanges.

[11] The term ''Comparable ETF Options'' will at any time include only the five ETFs based on the S&P 500 Index with the greatest options consolidated average daily exchange trading volume for the previous quarter.

[12] For purposes of this filing, cash equivalents are short-term instruments with maturities of less than three months, including: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[13] *See https://www.theocc.com/webapps/flex-reports.* Unless otherwise noted, all statistics provided herein are based on information from the Options Clearing Corporation (''OCC'').

[14] As of July 24, 2017, FLEX Options had open interest of 349,596 contracts, which equates to approximately $86 billion in notional interest.

[15] The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

[16] Intraday quotations and last sale information for FLEX Options are available directly from Cboe Options or through the Options Price Reporting Authority. Additionally, information about existing outstanding interest in FLEX Options is available on the OCC's Web site.

[17] The Exchange notes that Cboe Options is a member of the Option Price Regulatory Surveillance Authority, which was established in 2006, to provide efficiencies in looking for insider trading and serves as a central organization to facilitate collaboration in insider trading and investigations for the U.S. options exchanges. For more information, *see http://www.cboe.com/aboutcboe/legal/departments/orsareg.aspx.*

[18] All exchange-listed securities that the Funds may hold will trade on a market that is a member of the Intermarket Surveillance Group (''ISG'') and the Funds will not hold any non-exchange-listed equities or options, however, not all of the components of the portfolio for the Funds may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. For a list of the current members of ISG, see *www.isgportal.org.*

Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and Index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, S&P 500 Index Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, S&P 500 Index Options, including FLEX Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of a Fund's Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in a Fund's Shares would present manipulation concerns. Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).[19] Each Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.* 2x or − 2x) of the Index. Each Fund's use of derivative instruments will be collateralized.

The Exchange represents that, except as described above, each Fund will meet each of the initial and continued listing criteria in BZX Rule 14.11(c)(3) with the exception of meeting the requirements of Rule 14.11(c)(3)(A)(i), applicable to the listing of Index Fund Shares based upon an index of ''U.S. Component Stocks.'' The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Funds. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. In addition, the Exchange represents that the Shares of each Fund will comply with all other requirements applicable to Index Fund Shares, which includes requirements relating to the dissemination of key information such as the Index value,[20] the Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, firewalls for the Index Provider and Adviser, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules.

Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. RFQ information for FLEX Options will be available directly from Cboe Options. The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on Treasury bills and other cash equivalents is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. On each business day, before commencement of trading in the Shares on the Exchange during Regular Trading Hours, the portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day will be provided on the Advisor's Web site at *www.cboevest.com.*

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[21] in general and Section 6(b)(5) of the Act[22] 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.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative

[19] The Funds will each include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

[20] Rule 14.11(c)(3)(B)(ii) requires that the index value must be disseminated by one or more major market data vendors at least once every 15 seconds during regular market session, provided however, that if the index value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated index value must remain available throughout the Exchange's trading hours. The value of the Indexes will not change during the period when trading is occurring on the Exchange and the last official calculated index value will remain available throughout the Exchange's trading hours.

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

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 in that the Shares of the Funds will meet each of the initial and continued listing criteria required by BZX Rule 14.11(c)(3), which includes the listing requirements for an index that is composed of equity securities, except that the Indexes consist of options on an index of U.S. Component Stocks and Rule 14.11(c)(3)(A)(i) applies only to U.S. Component Stocks (that is, the rule provides criteria for an index composed of equity securities and not for an index that is composed of options on an index of equity securities), the Indexes do not meet the criteria set forth in Rule 14.11(c)(3).[23] The Exchange believes that the concerns that Rule 14.11(c)(3)(A)(i) are intended to address are mitigated by: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; [24] (ii) the competitive quoting process for and availability of information related to FLEX Options; [25] (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options and FINRA designed to detect violations of the federal securities laws and SRO rules. The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of FLEX Options, will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and Index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, S&P 500 Index Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, S&P 500 Index Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of the Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Shares would present manipulation concerns.

The Exchange represents that, except as it relates to the options portion of the Indexes described above, the Funds will meet and be subject to all other requirements of Rule 14.11(c)(3) related to generic listing standards of the Indexes and other applicable requirements for such a series of Index Fund Shares under Rule 14.11(c) on an initial and continued listing basis, including those requirements regarding the dissemination of key information such as the Index Value, Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules. The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Funds. Moreover, all of the options contracts held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with

[23] Rule 14.11(c)(3)(A)(i)(e) provides that all securities in the applicable index or portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the S&P 500 Index is a U.S. Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. The Funds and the Indexes meet all of the requirements of the listing standards for Index Fund Shares in Rule 14.11(c)(3), except the requirements in Rule 14.11(c)(3)(A)(i)(a)–(e), as the Index consists of options on the S&P 500 Index. The S&P 500 Index consists of U.S. Component Stocks and satisfies the requirements of Rule 14.11(c)(3)(A)(i)(a)–(e).

[24] The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

[25] Intraday quotations and last sale information for FLEX Options are available directly from Cboe Options or through the Options Price Reporting Authority. Additionally, information about existing outstanding interest in FLEX Options is available on the OCC's Web site.

which the Exchange has in place a comprehensive surveillance sharing agreement.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Index Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–CboeBZX–2017–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CboeBZX–2017–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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 No. SR–CboeBZX–2017–006 and should be submitted on or before January 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26557 Filed 12–8–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82218; File No. SR–NASDAQ–2017–121]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

December 5, 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, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to 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://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

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 Nasdaq 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

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Nasdaq 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 purposes of determining when the Exchange can open securities after an IPO,[6] and to calculate the need to trigger a short sale price test under Nasdaq Rule 4763(c) and Rule 201 of Regulation SHO because a covered security for which the Exchange is the listing market has declined 10% or more in one day. 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 purposes 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 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

[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).

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–NASDAQ–2017–121 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–121. 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

[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, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. 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).

submissions should refer to File Number SR–NASDAQ–2017–121 and should be submitted on or before January 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26556 Filed 12–8–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82217; File No. SR–CboeBZX–2017–005]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of a Series of the Cboe Vest S&P 500 Buffer Protect Strategy ETF Under the ETF Series Solutions Trust, Under Rule 14.11(c)(3), Index Fund Shares

December 5, 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 21, 2017, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to list and trade shares of a series of the Cboe Vest S&P 500® Buffer Protect Strategy ETF under the ETF Series Solutions Trust (the ''Trust''), under Rule 14.11(c)(3) (''Index Fund Shares'').

The text of the proposed rule change is available at the Exchange's Web site at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of each series of the Cboe Vest S&P 500® Buffer Protect Strategy ETF (each a ''Fund'' and, collectively, the ''Funds'') under Rule 14.11(c)(3), which governs the listing and trading of Index Fund Shares based on equity securities indexes on the Exchange. In total, the Exchange is proposing to list and trade Shares of twelve monthly series of the Cboe Vest S&P 500® Buffer Protect Strategy ETF. Each Fund will be an index-based exchange traded fund (''ETF''). The Funds will include the following: Cboe Vest S&P 500® Buffer Protect Strategy (January) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (February) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (March) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (April) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (May) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (June) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (July) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (August) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (September) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (October) ETF; Cboe Vest S&P 500® Buffer Protect Strategy (November) ETF; and Cboe Vest S&P 500® Buffer Protect Strategy (December) ETF. Each Fund will be based on the Cboe S&P 500 Buffer Protect Index (Month) Series, where ''Month'' is the corresponding month associated with the roll date of the applicable Fund (each an ''Index'' and, collectively, the ''Indexes'').

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on February 9, 2012. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Funds on Form N–1A (''Registration Statement'') with the Commission.[3] The Funds' adviser, Cboe Vest Financial, LLC (the ''Adviser''), and index provider, Cboe Exchange, Inc. (''Cboe Options'' or the ''Index Provider''), are not registered as broker-dealers, but are affiliated with a broker-dealer. The Index Provider has implemented and will maintain a ''fire wall'' with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the Indexes. In addition, Index Provider personnel who make decisions regarding the Index composition or methodology are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Index, pursuant to Rule 14.11(c)(3)(B)(iii). The Adviser has also implemented and will maintain a ''fire wall'' with respect to such broker-dealer and its personnel regarding access to information concerning the composition and/or changes to the portfolio. In addition, Adviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding a Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer; or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer; it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange also notes that the Adviser is a BZX Affiliate as defined in Rule 14.3(e)(1)(A),[4] but the Funds are not Affiliate Securities, as defined in

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Registration Statement on Form N–1A for the Trust, dated October 24, 2017 (File Nos. 333–179562 and 811–22668). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has not yet issued an order granting exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) applicable to the activities of the Funds, but the Funds will not be listed on the Exchange until such an order is issued and any conditions contained therein are satisfied [sic]

[4] As defined in Rule 14.3(e)(1)(A), the term ''BZX Affiliate'' means the Exchange and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Exchange, where ''control'' means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

Rule 14.11(e)(1)(B),[5] and are therefore not subject to the additional requirements applicable to Affiliate Securities because such definition explicitly excludes Index Fund Shares. The Funds intend to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

Each Fund's investment objective is to track, before fees and expenses, the performance of its respective Index. The value of each Index is calculated daily by Cboe Options utilizing an option valuation model. The Exchange is submitting this proposed rule change because the Indexes for the Funds do not meet the listing requirements of Rule 14.11(c)(3) applicable to an index that consists of equity securities (and with respect to this underlying index, an index that consists of options on an index of U.S. Component Stocks),[6] which requires that each component of an index be a U.S. Component Stock. As further described below, the Indexes consist of options on an index of U.S. Component Stocks. Because the Indexes consist of options based on an index of U.S. Component Stocks (the S&P 500 Index) and Rule 14.11(c)(3)(A)(i) applies only to U.S. Component Stocks (that is, the rule provides criteria for an index composed of equity securities and not for an index that includes options on an index of equity securities), it does not meet the criteria set forth in Rule 14.11(c)(3). As such, the Exchange submits this proposal to list the Shares on the Exchange.

Cboe Vest S&P 500® Buffer Protect Index

Each Index is a rules-based options index that consists exclusively of FLexible EXchange Options on the S&P 500 Index (''FLEX Options'') listed on Cboe Options.[7] The Indexes are designed to provide exposure to the large capitalization U.S. equity market with lower volatility and downside risks than traditional equity indices, except in environments of rapid appreciation in the U.S. equity market over the course of one year. On a specified day of the applicable month for each Index (the ''Roll Date''),[8] the applicable Index implements a portfolio of put and call FLEX Options with expirations on the next Roll Date that, if held to such Roll Date, seeks to ''buffer protect'' against the first 10% decline in the value of the S&P 500 Index, while providing participation up to a maximum capped gain in the value of the S&P 500 Index (the ''Capped Level''). The Capped Level is calculated as of each Roll Date based on the prices of the applicable FLEX Options, such that the value of the portfolio of FLEX Options that comprises each Index is equivalent to the value of a portfolio comprised of the S&P 500 Index constituents. As of the 2017 Roll Date, the Capped Level for the January Index was 11%, meaning that the January Index is designed to provide participation up to a maximum 11% gain in the value of the S&P 500 Index from the 2017 Roll Date to the 2018 Roll Date, but to not provide any participation for gains in the S&P 500 Index in excess of 11%.

Each Index is designed to provide the following outcomes between Roll Dates:

- *If the S&P 500 declines more than 10%:* The Index declines 10% less than the S&P 500 Index (*e.g.,* if the S&P 500 Index returns −35%, the Index is designed to return −25%);
- *If the S&P 500 declines between 0% and 10%:* The Index provides a total return of zero (0%);
- *If the S&P 500 appreciates between 0% and the Capped Level:* The Index appreciates the same amount as the S&P 500 Index; and
- *If the S&P 500 appreciates more than the Capped Level:* The Index appreciates by the amount of the Capped Level.

Each Index includes a mix of purchased and written (sold) put and call FLEX Options structured to achieve the results described above. Such results are only applicable for each full 12-month period from one Roll Date to the next Roll Date, and the Index may not return such results for shorter or longer periods. The value of each Index is calculated daily by Cboe Options utilizing a rules-based options valuation model.

Fund Holdings

Under Normal Market Conditions,[9] each Fund will seek to track the total return performance, before fees and expenses, of its respective Index. Under Normal Market Conditions, each Fund will invest all, or substantially all, of its assets in the FLEX Options that make up each respective underlying Index, standardized U.S. exchange-listed options contracts based on the S&P 500 (''S&P 500 Index Options''), U.S. exchange-listed options based on one or more ETFs [10] that track the performance of the S&P 500 Index and have the same economic characteristics as the FLEX Options that make up each Index (''Comparable ETF Options''),[11] as well as cash and cash equivalents.[12] Under Normal Market Conditions, at least 80% of each Fund's total assets (exclusive of any collateral held from securities lending) will be invested in the FLEX Options that make up the Index. The Funds will hold only FLEX Options, standardized exchange-listed options on the S&P 500 Index, Comparable ETF Options, and cash and cash equivalents. The FLEX Options owned by each Fund will have the same terms (*i.e.* same strike price and expiration) for all investors of that Fund within an outcome period. The Capped Level is determined with respect to the applicable Index on the inception date

[5] As defined in Rule 14.3(e)(1)(B), the term ''Affiliate Security'' means any security issued by a BZX Affiliate or any Exchange-listed option on any such security, with the exception of Portfolio Depository Receipts as defined in Rule 14.11(b) and Index Fund Shares as defined in Rule 14.11(c).

[6] As defined in Rule 14.11(c)(1)(D), the term ''U.S. Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

[7] More information about the Indexes and methodology is available on the Index Provider's Web site at *www.cboe.com.*

[8] As described above, each of the twelve Indexes are designed to provide returns over a defined year long period and, thus, there is an Index associated with each month. As such, the Roll Date for a specific Index is dependent on the monthly series for which the index is associated. For example, the Roll Date for the Cboe® S&P 500® Buffer Protect Index January Series is in January and the Roll date for the Cboe® S&P 500® Buffer Protect Index February Series is in February, a pattern which continues through the rest of the calendar year.

[9] The term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[10] For purposes of this proposal, the term ETF means Portfolio Depositary Receipts and Index Fund Shares as defined in Rule 14.11(b) and 14.11(c), respectively, and their equivalents on other national securities exchanges.

[11] The term ''Comparable ETF Options'' will at any time include only the five ETFs based on the S&P 500 Index with the greatest options consolidated average daily exchange trading volume for the previous quarter.

[12] For purposes of this filing, cash equivalents are short-term instruments with maturities of less than three months, including: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

of the applicable Fund and at the beginning of each outcome period.

S&P 500 Index Options

The market for S&P 500 Index Options traded on Cboe Options, including FLEX Options, is among the most liquid markets in the world. FLEX Options are a subset of S&P 500 Index options traded on Cboe Options.[13] In 2016, 1,023,623 options contracts on the S&P 500 Index were traded per day on Cboe Options, which is more than $200 billion in notional volume traded on a daily basis.[14] While FLEX Options are traded differently than traditional options contracts, the Exchange believes that the liquidity and arbitrage opportunities of the S&P 500 Index bolsters the market for FLEX Options, as described below.

Every FLEX Option order submitted to Cboe Options is exposed to a competitive auction process for price discovery. The process begins with a request for quote (''RFQ'') in which the interested party establishes the terms of the FLEX Options contract. The RFQ solicits interested market participants, including on-floor market makers, remote market makers trading electronically, and member firm traders, to respond to the RFQ with bids or offers through a competitive process. This solicitation contains all of the contract specifications-underlying, size, type of option, expiration date, strike price, exercise style and settlement basis. During a specified amount of time, responses to the RFQ are received and at the end of that time period, the initiator can decide whether to accept the best bid or offer. The process occurs under the rules of Cboe Options which means that customer transactions are effected according to the principles of a fair and orderly market following trading procedures and policies developed by Cboe Options.

Additional Discussion

The Exchange believes that sufficient protections are in place to protect against market manipulation of each Fund's Shares and S&P 500 Index Options and Comparable ETF Options for several reasons: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; [15] (ii) the competitive quoting process for FLEX Options; [16] (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options and the Financial Industry Regulatory Authority (''FINRA'') designed to detect violations of the federal securities laws and self-regulatory organization (''SRO'') rules.

Trading in the Shares and the underlying investments will be subject to the federal securities laws and Exchange, Cboe Options, FINRA, and, with respect to the Comparable ETF Options, other U.S. options exchanges' rules and surveillance programs.[17]

The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of FLEX Options on the S&P 500 Index, will be acquired in extremely liquid and highly regulated markets,[18] the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and Index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, S&P 500 Index Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their

[13] *See https://www.theocc.com/webapps/flex-reports.* Unless otherwise noted, all statistics provided herein are based on information from the Options Clearing Corporation (''OCC'').

[14] As of July 24, 2017, FLEX Options had open interest of 349,596 contracts, which equates to approximately $86 billion in notional interest.

[15] The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

[16] Intraday quotations and last sale information for FLEX Options are available directly from Cboe Options or through the Options Price Reporting Authority. Additionally, information about existing outstanding interest in FLEX Options is available on the OCC's Web site.

[17] The Exchange notes that Cboe Options is a member of the Option Price Regulatory Surveillance Authority, which was established in 2006, to provide efficiencies in looking for insider trading and serves as a central organization to facilitate collaboration in insider trading and investigations for the U.S. options exchanges. For more information, *see http://www.cboe.com/aboutcboe/legal/departments/orsareg.aspx.*

[18] All exchange-listed securities that the Funds may hold will trade on a market that is a member of the Intermarket Surveillance Group (''ISG'') and the Funds will not hold any non-exchange-listed equities or options, however, not all of the components of the portfolio for the Funds may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. For a list of the current members of ISG, see *www.isgportal.org.*

value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, S&P 500 Index Options, including FLEX Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of a Fund's Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in a Fund's Shares would present manipulation concerns. Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).[19] Each Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.* 2x or − 2x) of the Index. Each Fund's use of derivative instruments will be collateralized.

The Exchange represents that, except as described above, each Fund will meet each of the initial and continued listing criteria in BZX Rule 14.11(c)(3) with the exception of meeting the requirements of Rule 14.11(c)(3)(A)(i), applicable to the listing of Index Fund Shares based upon an index of ''U.S. Component Stocks.'' The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Funds. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. In addition, the Exchange represents that the Shares of each Fund will comply with all other requirements applicable to Index Fund Shares, which includes requirements relating to the dissemination of key information such as the Index value,[20] the Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, firewalls for the Index Provider and Adviser, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules.

Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. RFQ information for FLEX Options will be available directly from Cboe Options. The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on Treasury bills and other cash equivalents is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. On each business day, before commencement of trading in the Shares on the Exchange during Regular Trading Hours, the portfolio that will form the basis for each Fund's calculation of NAV at the end of the business day will be provided on the Advisor's Web site at *www.cboevest.com.*

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[21] in general and Section 6(b)(5) of the Act[22] 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.

The Exchange believes that the proposed rule change 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 in that the Shares of the Funds will meet each of the initial and continued listing criteria required by BZX Rule 14.11(c)(3), which includes the listing requirements for an index that is composed of equity securities, except that the Indexes consist of options on an index of U.S. Component Stocks and Rule 14.11(c)(3)(A)(i) applies only to U.S. Component Stocks (that is, the rule provides criteria for an index composed of equity securities and not for an index that is composed of options on an index of equity securities), the Indexes do not meet the criteria set forth in Rule 14.11(c)(3).[23] The Exchange believes that the concerns that Rule 14.11(c)(3)(A)(i) are intended to address are mitigated by: (i) The diversity, liquidity, and market cap of the securities underlying the S&P 500 Index;[24] (ii) the competitive quoting process for and availability of information related to FLEX Options;[25] (iii) the significant liquidity in the market for options on the S&P 500 Index results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options and FINRA designed to detect violations of the federal securities laws and SRO rules. The Exchange has in place a surveillance program for transactions in

[19] The Funds will each include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

[20] Rule 14.11(c)(3)(B)(ii) requires that the index value must be disseminated by one or more major market data vendors at least once every 15 seconds during regular market session, provided however, that if the index value does not change during some or all of the period when trading is occurring on the Exchange, then the last official calculated index value must remain available throughout the Exchange's trading hours. The value of the Indexes will not change during the period when trading is occurring on the Exchange and the last official calculated index value will remain available throughout the Exchange's trading hours.

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

[23] Rule 14.11(c)(3)(A)(i)(e) provides that all securities in the applicable index or portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the S&P 500 Index is a U.S. Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. The Funds and the Indexes meet all of the requirements of the listing standards for Index Fund Shares in Rule 14.11(c)(3), except the requirements in Rule 14.11(c)(3)(A)(i)(a)–(e), as the Index consists of options on the S&P 500 Index. The S&P 500 Index consists of U.S. Component Stocks and satisfies the requirements of Rule 14.11(c)(3)(A)(i)(a)–(e).

[24] The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

[25] Intraday quotations and last sale information for FLEX Options are available directly from Cboe Options or through the Options Price Reporting Authority. Additionally, information about existing outstanding interest in FLEX Options is available on the OCC's Web site.

ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of FLEX Options, will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and Index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, S&P 500 Index Options are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, S&P 500 Index Options, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the price of the Shares. The Exchange also believes that such efficiency and liquidity are sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Shares would present manipulation concerns.

The Exchange represents that, except as it relates to the options portion of the Indexes described above, the Funds will meet and be subject to all other requirements of Rule 14.11(c)(3) related to generic listing standards of the Indexes and other applicable requirements for such a series of Index Fund Shares under Rule 14.11(c) on an initial and continued listing basis, including those requirements regarding the dissemination of key information such as the Index Value, Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Index Fund Shares and the orders approving such rules. The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Funds. Moreover, all of the options contracts held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Index Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–CboeBZX–2017–005 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 No. SR–CboeBZX–2017–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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 No. SR–CboeBZX–2017–005 and should be submitted on or before January 2, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–26558 Filed 12–8–17; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10229]

Determination of Use of Emergency Reserve Fund

SUMMARY: Pursuant to section 7058(c)(1) of the Department of State, Foreign Operations, and Related Appropriations Act, 2015 (Div. J, Pub. L. 115–31), notice is hereby given that, on October 30, 2017, Secretary of State Rex Tillerson determined that it is in the national interest to make up to $5.5 million available from the Emergency Reserve Fund to respond to an emerging health threat that poses severe risks to human health in Madagascar and, if the outbreak spreads beyond Madagascar, in any newly affected countries.

FOR FURTHER INFORMATION CONTACT: Allison S. Bybee, U.S. Department of State, 2201 C Street NW., Washington, DC 20520, (202) 647–3058, *BybeeAS@state.gov.*

SUPPLEMENTARY INFORMATION: Section 7058(c)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (Div. J, Pub. L. 115–31) provides that:

> Of the funds appropriated by this Act under the heading ''Global Health Programs'', $70,000,000 shall be made available for an Emergency Reserve Fund to address emerging health threats, and shall remain available until expended: *Provided,* That such funds shall be in addition to funds otherwise available for such purposes, and may be transferred to, and merged with, funds appropriated by this Act under the heading ''International Disaster Assistance'' for the purposes of this paragraph: *Provided further,* That such funds may only be made available if the Secretary of State determines and reports to the Committees on Appropriations that it is in the national interest to respond to an emerging health threat that poses severe threats to human health.

Exercising this authority allows funds made available in the Emergency Reserve Fund to be used to respond to the ongoing outbreak of plague in Madagascar, and in newly affected countries, if the outbreak spreads beyond Madagascar.

Jonathan A. Margolis,

Senior Bureau Official, Bureau of Oceans and International Environmental and Scientific Affairs.

[FR Doc. 2017–26601 Filed 12–8–17; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Procurement Thresholds for Implementation of the Trade Agreements Act of 1979

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined the U.S. dollar procurement thresholds to implement certain U.S. trade agreement obligations, as of January 1, 2018, for calendar years 2018 and 2019.

DATES: This notice is applicable on January 1, 2018, for calendar years 2018 and 2019.

FOR FURTHER INFORMATION CONTACT: Scott Pietan, Director of International Procurement Policy, at (202) 395–9646 or *scott_pietan@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 12260 requires the United States Trade Representative to set the U.S. dollar procurement thresholds for application of Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*). These obligations apply to covered procurements valued at or above specified U.S. dollar thresholds.

In conformity with the provisions of Executive Order 12260, and in order to carry out U.S. trade agreement obligations, United States Trade Representative Robert E. Lighthizer has determined the U.S. dollar procurement thresholds, effective on January 1, 2018, for calendar years 2018 and 2019 as follows:

I. World Trade Organization (WTO) Agreement on Government Procurement

A. *Central Government Entities listed in U.S. Annex 1:*

(1) Procurement of goods and services—$180,000; and

(2) Procurement of construction services—$6,932,000.

B. *Sub-Central Government Entities listed in U.S. Annex 2:*

(1) Procurement of goods and services—$492,000; and

(2) Procurement of construction services—$6,932,000.

C. *Other Entities listed in U.S. Annex 3:*

(1) Procurement of goods and services—$555,000; and

(2) Procurement of construction services—$6,932,000.

II. Chapter 15 of the United States-Australia Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 15–A, Section 1:*

(1) Procurement of goods and services—$80,317; and

(2) Procurement of construction services—$6,932,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 15–A, Section 2:*

(1) Procurement of goods and services—$492,000; and

(2) Procurement of construction services—$6,932,000.

C. *Other Entities listed in the U.S. Schedule to Annex 15–A, Section 3:*

(1) Procurement of goods and services for List A Entities—$401,584;

(2) Procurement of goods and services for List B Entities—$555,000;

(3) Procurement of construction services—$6,932,000.

III. Chapter 9 of the United States-Bahrain Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9–A–1:*
(1) Procurement of goods and services—$180,000; and
(2) Procurement of construction services—$10,441,216.
B. *Other Entities listed in the U.S. Schedule to Annex 9–A–2:*
(1) Procurement of goods and services for List B entities—$555,000; and
(2) Procurement of construction services—$12,851,327.

IV. Chapter 9 of the United States-Chile Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*
(1) Procurement of goods and services—$80,317; and
(2) Procurement of construction services—$6,932,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$492,000; and
(2) Procurement of construction services—$6,932,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List A Entities—$401,584;
(2) Procurement of goods and services for List B Entities—$555,000;
(3) Procurement of construction services—$6,932,000.

V. Chapter 9 of the United States-Colombia Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*
(1) Procurement of goods and services—$80,317; and
(2) Procurement of construction services—$6,932,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$492,000; and
(2) Procurement of construction services—$6,932,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List B Entities—$555,000;
(2) Procurement of construction services—$6,932,000.

VI. Chapter 9 of the Dominican Republic-Central American-United States Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section A:*
(1) Procurement of goods and services—$80,317; and
(2) Procurement of construction services—$6,932,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section B:*
(1) Procurement of goods and services—$492,000; and
(2) Procurement of construction services—$6,932,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section C:*
(1) Procurement of goods and services for List B Entities—$555,000;
(2) Procurement of construction services—$6,932,000.

VII. Chapter 17 of the United States-Korea Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 17–A, Section A:*
(1) Procurement of construction services—$6,932,000.

VIII. Chapter 9 of the United States-Morocco Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9–A–1:*
(1) Procurement of goods and services—$180,000; and
(2) Procurement of construction services—$6,932,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9–A–2:*
(1) Procurement of goods and services—$492,000; and
(2) Procurement of construction services—$6,932,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9–A–3:*
(1) Procurement of goods and services for List B Entities—$555,000;
(2) Procurement of construction services—$6,932,000.

IX. Chapter 10 of the North American Free Trade Agreement

A. *Federal Government Entities listed in the U.S. Schedule to Annex 1001.1a–1:*
(1) Procurement of goods and services—$80,317; and
(2) Procurement of construction services—$10,441,216.
B. *Government Enterprises listed in the U.S. Schedule to Annex 1001.1a–2:*
(1) Procurement of goods and services—$401,584; and
(2) Procurement of construction services—$12,851,327.

X. Chapter 9 of the United States-Oman Free Trade Agreement

A. *Central Level Government Entities listed in the U.S. Schedule to Annex 9, Section A:*
(1) Procurement of goods and services—$180,000; and
(2) Procurement of construction services—$10,441,216.
B. *Other Covered Entities listed in the U.S. Schedule to Annex 9, Section B:*
(1) Procurement of goods and services for List B Entities—$555,000;
(2) Procurement of construction services—$12,851,327.

XI. Chapter 9 of the United States-Panama Trade Promotion Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*
(1) Procurement of goods and services—$180,000; and
(2) Procurement of construction services—$6,932,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$492,000; and
(2) Procurement of construction services—$6,932,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List B Entities—$555,000;
(2) Procurement of construction services—$6,932,000.
D. *Autoridad del Canal de Panamá*
(1) Procurement of goods and services—$555,000.

XII. Chapter 9 of the United States-Peru Trade Promotion Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*
(1) Procurement of goods and services—$180,000; and
(2) Procurement of construction services—$6,932,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$492,000; and
(2) Procurement of construction services—$6,932,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List B Entities—$555,000;
(2) Procurement of construction services—$6,932,000.

XIII. Chapter 13 of the United States-Singapore Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section A:*
(1) Procurement of goods and services—$80,317; and
(2) Procurement of construction services—$6,932,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section B:*

(1) Procurement of goods and services—$492,000; and

(2) Procurement of construction services—$6,932,000.

C. *Other Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section C:*

(1) Procurement of goods and services—$555,000;

(2) Procurement of construction services—$6,932,000.

Jamieson Greer,

Chief of Staff, Office of the United States Trade Representative.

[FR Doc. 2017–26597 Filed 12–8–17; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0237]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 81 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

FMCSA received applications from 81 individuals who requested an exemption from the FMCSRs prohibiting persons with ITDM from operating a CMV in interstate commerce. FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(3).

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption.''

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

IV. Conclusion

The Agency has determined that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(3). Therefore, the 81 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(3).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following eight applicants met the diabetes requirements of 49 CFR 391.41(b)(3) and do not need an exemption:

Melchor A. Corral (CO)
Timothy J. Furman (NY)
Alex A. Jackson (TX)
Gregory M. Johnson (TX)
William S. Langeluttig (ME)
Maria C. Mariquez (TX)
Sergio P. Raymundo (KS)
Maurice R. Williams (MN)

The following 42 applicants were not operating CMVs in interstate commerce:

Jason A. Applegate (AR)
Christopher J. Barreira (MA)
Zamorano Benito (CA)
Mingle Blake (FL)
Joshua J.J. Blouin (VT)
Marcial C. Cardenas (FL)
Billy B. Carnes (NE)
Roy L. Christopherson (WI)
Marvin B. Collins (IN)
James P. Demby (MD)
Walter Dudiak (PA)
Beth-Lynne Durant (MA)
Nicholas B. Durkin (NJ)
Martin N. Escalante (NC)
William F. Gelinas (MA)
Darren K. Green (CT)
Robert J. Grewette (MI)
Randy S. Huckins (AZ)
Anthony E. Jackson (TX)
Kevin T. Lively (TN)
Rendell E. Norrington (IL)
Ryan A. Oglesby (IN)
Latasha M. Oliver (OH)
Donte S. Parker (MD)
Steven J. Pipa (FL)
Ricardo C. Ray (CA)
Larry J. Rogers (MA)
George Sanchez (TX)
Carlos Sanchez (MA)
Richard K. Schaefer (TX)
Galen L. Sears (KS)
Michael W. Stockton (WI)
Milton L. Terrell (VA)
Jerry L. Thomas (GA)
Erasmo Torres (TX)
Ralph VanZandt, Jr. (NY)
Susie M. Vazquez (CA)
Kenneth Walker (MN)
Kenneth C. Waterhouse (CT)
Raymond L. Williamson (IL)
Terry L. Wood (NC)
Billy E. York (NC)

The following six applicants have had more than one hypoglycemic episode requiring hospitalization or the assistance of others, or has had one such episode but has not had one year of stability following the episode:

David J. Couch (OR)

Delmar W. Daoust (FL)
Cameron D. Ferguson (TX)
George W. Huwe (PA)
Kevin R. Kerrigan (MI)
William E. Naeve (CO)

Kenneth E. Gilreath (OH) had other medical conditions making the applicant otherwise unqualified under the FMCSRs.

The following two applicants did not have endocrinologists willing to make statements that they are able to operate CMVs from a diabetes standpoint:

David A. Martin (IL)
Amy L. Purvis (WI)

Michael L. Hawkins (GA) had other miscellaneous reasons making the applicant otherwise unqualified under the FMCSRs.

Glenn A. Bauer (SK) currently resides in Canada. He is not eligible because the Federal exemption is for drivers operating only in the United States.

Patrick L. Beasley (AR) has peripheral neuropathy or circulatory insufficiency of the extremities likely to interfere with his ability to operate a CMV.

The following four applicants did not meet the minimum age criteria outlined in 49 CFR 391.41(b)(1) which states that an individual must be at least 21 years old to operate a CMV in interstate commerce:

Drake C. Comer (VA)
Melissa A. Laskowski (NY)
Matthew T.S. Odell (OH)
Cameron M. Simpson (CA)

The following 15 applicants were exempt from the diabetes standard:

David L. Balcom (MO)
Michael G. Brown (MD)
Perry C. Browning (OR)
Jeffery A. Cooper (IN)
Steven T. Dolar (CA)
Marsha S. Dunn (NC)
Melody F. Levi (IL)
Jason R. Maunz (OH)
Cindy L. Murphy (OK)
Blake A. Nylund (WA)
Thomas F. Rinn (CO)
Joshua J. Rodman (CT)
Mary A. Satterfield (TN)
Earl T. Smith (MT)
Tesfaye Tekle (TX)

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–26585 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0381; FMCSA–2014–0382; FMCSA–2015–0115]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for three individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on June 10, 2017. The exemptions expire on June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, f*mcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On September 18, 2017, FMCSA published a notice announcing its decision to renew exemptions for three individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (82 FR 43652). The public comment period ended on October 18, 2017 and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the three renewal exemption applications, FMCSA announces its' decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8):

Monte J. DeRocini (PA)
Teddy H. Dixon (GA)
Bryan R. Jones (PA)

The drivers were included in docket number FMCSA–2014–0381; FMCSA–2014–0382; FMCSA–2015–0115. Their exemptions are applicable as of June 10, 2017, and will expire on June 10, 2019.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy .

[FR Doc. 2017–26594 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2017–0233]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 37 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on October 19, 2017. The exemptions expire on October 19, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On September 18, 2017, FMCSA published a notice announcing receipt of applications from 37 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (82 FR 43642). The public comment period ended on October 18, 2017, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

III. Discussion of Comments

FMCSA received one comment in this proceeding. Brian Weaver stated that if the drivers have their diabetes in check the exemption will be fine. FMCSA has requirements that all diabetes applicants must meet to obtain a Federal Diabetes Exemption. All of the listed applicants on this **Federal Register** have met those requirements.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the September 18, 2017, **Federal Register** notice (82 FR 43642) and will not be repeated in this notice.

These 37 applicants have had ITDM over a range of one to 38 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/

she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 37 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Jerry E. Blanchet (RI)
Eric J. Brunke (WI)
Gregorio A. Climaco (MA)
Jeffrey S. Combs (IL)
James W. Davis (MT)
Paul J. Dent (IA)
Todd S. Gardner (FL)
Nathan T. Gintner (WI)
Ronald K. Glick (IL)
Diosdado P. Godoy (HI)
David E. Gordon, Jr. (MA)
Jimmie W. Grady (NC)
Matthew S. Helm (PA)
Alan B. Jackson (OH)
Dennis L. James (OR)
Tony C. Johnson (AR)
Russell E. Jones, Jr. (FL)
Derrick D. LaRue (RI)
Mark C. Lessman (IL)
Ernest H.S. Louis (SC)
Allen J. McNall (NY)
Ernest A. Mitchell (TX)
Irvin A. Moos (ND)
Jose L. Pesina (IA)
Corey M. Salmon (VA)
Tony J. Shives (FL)
Joel M. Siegrist (PA)
Andre B. Sims (NC)
Roger K. Skeens (IN)
Shae A. Spilker (MT)
Dennis B. Strait (NJ)
C. Edward Tanner (PA)
Mary Thomas (DE)
Kyle R. Thompson (CA)
Jeffery W. Vaughan (MN)
John F. White (NY)
Ronald E. Wolf (IL)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–26593 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0235]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 27 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) operating a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before January 10, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2017–0235 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day ET, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The 27 individuals listed in this notice have requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV

if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population.

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305). Section 4129 requires: (1) Elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the three-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e). Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003, notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003, notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

II. Qualifications of Applicants

Larry L. Alirez

Mr. Alirez, 60, has had ITDM since 2010. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Alirez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Alirez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Mexico.

Samuel L. Boothe

Mr. Boothe, 64, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Boothe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boothe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Missouri.

Edward C. Carlson

Mr. Carlson, 71, has had ITDM since 2010. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Carlson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carlson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Massachusetts.

Andrew W. Carstens

Mr. Carstens, 46, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Carstens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carstens meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Timothy R. Conaway

Mr. Conaway, 62, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Conaway understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Conaway meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Delaware.

Ronald E. Cope, Sr.

Mr. Cope, 78, has had ITDM since 2004. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Cope understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cope meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Jeffrey Dockhorn

Mr. Dockhorn, 59, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Dockhorn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dockhorn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Jersey.

Elias O. Eniade

Mr. Eniade, 60, has had ITDM since 2014. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Eniade understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eniade meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Missouri.

Michael L. Evans

Mr. Evans, 53, has had ITDM since 2010. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Evans understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Evans meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Billy E. Hickman, Jr.

Mr. Hickman, 34, has had ITDM since 2013. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Hickman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hickman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Lejuan K. Holmes

Mr. Holmes, 46, has had ITDM since 1986. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Holmes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holmes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Texas.

Roy J. McDonald

Mr. McDonald, 71, has had ITDM since 2011. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. McDonald understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDonald meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Michael D. Mook

Mr. Mook, 56, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Mook understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mook meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Nathon J. Owens

Mr. Owens, 41, has had ITDM since 1989. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Owens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Owens meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Guy K. Paquette

Mr. Paquette, 57, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Paquette understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Paquette meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Minnesota.

Robert C. Payne

Mr. Payne, 57, has had ITDM since 2003. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Payne understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Payne meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Virginia.

Lyle S. Pearson

Mr. Pearson, 54, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Pearson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pearson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Joseph M. Pellish, Jr.

Mr. Pellish, 59, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Pellish understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pellish meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Daniel R. Plecki

Mr. Plecki, 28, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Plecki understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Plecki meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Victor H. Pulgarin-Gomez

Mr. Pulgarin-Gomez, 32, has had ITDM since 2008. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Pulgarin-Gomez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pulgarin-Gomez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Stephen D. Reintsma

Mr. Reintsma, 49, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Reintsma understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reintsma meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Charles W. Wakefield

Mr. Wakefield, 58, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Wakefield understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wakefield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

John L. Whitehead, Jr.

Mr. Whitehead, 54, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that

occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Whitehead understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whitehead meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Keith L. Wilson

Mr. Wilson, 47, has had ITDM since 2011. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Wilson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Adam J. Writz

Mr. Writz, 30, has had ITDM since 2015. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Writz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Writz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds an operator's license from Idaho.

Rave Y. Yarron

Mr. Yarron, 39, has had ITDM since 2017. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Yarron understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yarron meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Willie C. Young

Mr. Young, 58, has had ITDM since 2016. His endocrinologist examined him in 2017 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the last five years. His endocrinologist certifies that Mr. Young understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Young meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2017 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0235 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0235 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–26583 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Unified Carrier Registration Plan Board of Directors; Sunshine Act Meetings

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors meeting.

TIME AND DATE: The meeting will be held on December 14, 2017, from 9:00 a.m. to 4:00 p.m., Eastern Standard Time.

PLACE: The meeting will be open to the public at the; Towers at Wildwood, 1st Floor Conference Center—East Tower, 3200 Windy Hill Road, Atlanta, GA 30339, and via conference call. Those not attending the meeting in person may call 1–877–422–1931, passcode 2855443940, to listen and participate in the meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may

consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: December 6, 2017.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2017–26722 Filed 12–7–17; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–29035; FMCSA–2008–0293; FMCSA–2009–0242; FMCSA–2011–0277; FMCSA–2011–0278; FMCSA–2013–0184; FMCSA–2013–0187; FMCSA–2013–0190; FMCSA–2015–0336; FMCSA–2015–0337]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 178 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before January 10, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5:30 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2007–29035; FMCSA–2008–0293; FMCSA–2009 0242; FMCSA–2011–0277; FMCSA–2011–0278; FMCSA–2013–0184; FMCSA–2013–0187; FMCSA–2013–0190; FMCSA–2015–0336; FMCSA–2015–0337 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day ET, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

The 178 individuals listed in this notice have requested renewal of their exemptions from the diabetes standard in 49 CFR 391.41(b)(3), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 178 applicants has satisfied the renewal conditions for obtaining an exemption from the diabetes requirement (74 FR 48338; 74 FR 62883; 80 FR 74196; 73 FR 63042; 73 FR 75163; 80 FR 70067; 81 FR 6326; 78 FR 63298; 78 FR 76397; 72 FR 62514; 72 FR 71996; 76 FR 64165; 76 FR 78718; 76 FR 66120; 76 FR 79759; 78 FR 64267; 78 FR 77784; 80 FR 74190; 81 FR 6332; 78 FR 65034; 79 FR 3917). They have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that

extending the exemption for each of these drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of December 1, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (74 FR 48338; 74 FR 62883; 80 FR 74196):

Charles E. Boyd (NE)
Warren B. Copple, Jr. (MI)
Hernan Hernandez (CT)
Jeffrey E. Kiehl (MI)
Jesus G. Maesse (TX)
Jackson R. Olive (NY)
Thomas N. Pico (PA)
Jon C. Thomas (MT)
Dennis M. Thyfault (UT)

The drivers were included in docket number FMCSA–2009–0242. Their exemptions are applicable as of December 1, 2017, and will expire on December 1, 2019.

As of December 10, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (73 FR 63042; 73 FR 75163; 80 FR 74196):

Herschel J. Crawford (AK)
James E. Gaines (NJ)
Allan D. Gralapp (IA)
Scott L. Halm (OH)
Dean A. Sullivan (KY)
Lawrence W. Thomas (AR)

The drivers were included in docket number FMCSA–2008–0293. Their exemptions are applicable as of December 10, 2017, and will expire on December 10, 2019.

As of December 15, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 35 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 70067; 81 FR 6326):

Ramon Becerra (IN)
Steven J. Bloemker (OH)
Billy J. Bookout (OK)
David M. Brady (NE)
William G. Bush (IL)
Gene D. Carey, Jr. (PA)
James C. Decker (CA)
Thomas C. Eklund (OR)
Rodney L. Forrister, Jr. (MI)
Ronald J. Gasper (SD)
Jeremy J. Giesbrecht (IN)
Ethan T. Heideman (MN)
David T. Issler (NY)
Todd D. Jacquin (NC)
Mark C. Kucharski (CO)
Philip M. LaPierre (ME)
Mary J. Martin (PA)
Terry J. Miller (WI)
Marvin K. Mosley (SC)
Eric Nieves, Jr. (NY)
George W. Pottle, IV (ME)
Charles R. Ratcliff, Jr. (VA)
Joseph B. Ribitzki (AR)
Roger D. Richey (IN)
Michael G. Sanchez (CA)
Guido J. Scarafoni (MA)
Jeffrey M. Schleisman (IA)
Sanampreet Singh (CA)
Joshua A. Snyder (WV)
Leonard Tawahongva (AZ)
Edward M. Taylor (NE)
Donald L. Trogdon (ID)
Lazario R. Watkins (NC)
Eric J. Watson (NY)
William T. White (WA)

The drivers were included in docket number FMCSA–2015–0336. Their exemptions are applicable as of December 15, 2017, and will expire on December 15, 2019.

As of December 17, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 51 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 63298; 78 FR 76397; 80 FR 74196):

Toni Benfield (SC)
Peter J. Benz (FL)
Robert J. Berger, III (PA)
Daniel A. Bryan (PA)
Travis D. Clarkston (IN)
Romero Coleman (WI)
Michael J. Collins (WA)
Stephen A. Cronin (FL)
Steven M. Dent (IA)
John S. Duvall (PA)
Robert S. Engel (IN)
Steven M. Ference (CT)
David W. Foster (TN)
Francis M. Garlach, III (PA)
Allen D. Goddard (MO)
Brian L. Gregory (IL)
Alfonso Grijalva (CA)
Jason E. Jacobus (KY)
Bobby H. Johnson (GA)
Kevin E. Kneff (MO)
Margaret Lopez (NY)
John D. May (KS)
Mike C. McDowell (TX)
Charles B. McKay (FL)
Norman C. Mertz (PA)
Travis F. Moon (GA)
Ronald Mooney (ID)
Martin J. Mostyn (OH)
Floyd P. Murray, Jr. (UT)
Steven D. Nowakowski (MD)
Gary D. Peters (NE)
Mark A. Pille (IA)
Stephen Plesz (CT)
Glen E. Pozernick (ID)
Jody R. Prause (MI)
Walter A. Przewrocki, Jr. (PA)
Andrew Wuaglia (NY)
Stanley A. Sabin (KY)
Joseph F. Schafer, Jr. (PA)
Gary A. Sjokvist (ND)
Gary L. Snelling (AL)
Charles W. Sterling (WA)
Thomas L. Stoudnour (PA)
Matthew S. Thompson (PA)
Robin S. Travis (CO)
James R. Troutman (PA)
William R. Van Gog (WA)
Charles S. Watson (IL)
William E. Wyant, III (IA)
Mark A. Yurian (MT)
David M. Zanicky (PA)

The drivers were included in docket number FMCSA–2013–0187. Their exemptions are applicable as of December 17, 2017, and will expire on December 17, 2019.

As of December 19, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 24 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (72 FR 62514; 72 FR 71996; 76 FR 64165; 76 FR 78718; 80 FR 74196):

Robin R. Baumgartner (WI)
Joseph K. Beasley (GA)
Glenn W. Burke (NY)
David P. Charest (FL)
Derek E. Dowling (PA)
Donald E. Dupke, Jr. (IN)
Donald N. Ellis (IN)
Tim E. Holmberg (WI)
Russell D. Jordan (ND)
Warren D. Knabe (NE)
Jackie L. Lane (TX)
Dennis L. Lorenz (IN)
Robert J. Malone (NJ)
Toni A. Moore (AR)
Clayton A. Powers (CA)
Dennis R. Scheel (SD)
Michael K. Schulist (MI)
Andrew W. Shirk (MS)
Jerry L. Smit (MN)
Reese L. Sullivan (TX)
Robert M. Walker (PA)
Robert E. Weiss (MI)
Robert A. Wild (OR)
Randy L. Wyant (OH)

The drivers were included in docket numbers FMCSA–2007–29035; FMCSA–2011–0277. Their exemptions are applicable as of December 19, 2017, and will expire on December 19, 2019.

As of December 22, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the rule

prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 66120; 76 FR 79759; 80 FR 74196):

Lennie D. Cook (OH)
David R. Cornelius (IL)
Scott A. Edwards (PA)
Ronald J. Ezell (MO)
Marcus M. Gagne (ME)
David P. Govero (MO)
Christopher A. Jones (WY)
Donald R. McClure, Jr. (PA)
Clyde G. Rishel, Jr. (PA)
Kurt Schneider (VT)
Douglas O. Sundby (ND)

The drivers were included in docket number FMCSA–2011–0278. Their exemptions are applicable as of December 22, 2017, and will expire on December 22, 2019.

As of December 24, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 12 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 64267; 78 FR 77784; 80 FR 74196):

Theeir L. Coleman (VA)
William I. Harbolt (MT)
Ryan L. Harrier (MI)
Larry W. Hines (NM)
Mark G. Kahler (TX)
Michael W. McCrary (GA)
Sean T. McMahon (WI)
David S. Monroe (KS)
John E. Parker (KS)
David G. Schultz (PA)
Donald A. Spivey (TN)
Jerry D. Zimmerman (ND)

The drivers were included in docket number FMCSA–2013–0184. Their exemptions are applicable as of December 24, 2017, and will expire on December 24, 2019.

As of December 29, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 26 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 74190; 81 FR 6332):

Michael E. Adrieansen (IL)
Samuel M. Balis (PA)
Dwight J. Banks (IL)
David R. Bauman, III (MI)
Dustin D. Brown (WI)
Thomas W. Camp (VA)
Nathan G. Carnes (OR)
Damiano DiFlorio (NJ)
Sammy N. Fox (PA)
Matthew D. Fox (IN)
Chadwick E. Gainey (FL)
Jamal A. George (OH)
John M. Halm (WA)
William R. Hardy (MI)
Craig A. Hendrickson (IL)
Darold W. Mahlstedt (IA)
Robert L. McConnell (PA)
Randall T. Mitchell (AL)
Shawn P. O'Malley (WA)
Kenneth W. Phillips (IN)
Jakob K. Siler (WA)
Darren G. Steil (IA)
Richard W. Wagner (MN)
John F. Wesoloski, Jr. (ND)
Levon Wright, Sr. (FL)
Tadeusz S. Wrzesinki (PA)

The drivers were included in docket number FMCSA–2015–0337. Their exemptions are applicable as of December 29, 2017, and will expire on December 29, 2019.

As of December 30, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 74190; 81 FR 6332):

Cris A. Brown (MI)
Vincenzo A. Cortese (CT)
Keith R. Miller (WV)

The drivers were included in docket number FMCSA–2013–0190. Their exemptions are applicable as of December 30, 2017, and will expire on December 30, 2019.

As of December 31, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, Gary L. Crawford (OH) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 65034; 79 FR 3917; 80 FR 74196).

This driver was included in docket number FMCSA–2013–0190. The exemption is applicable as of December 31, 2017, and will expire on December 31, 2019.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) each driver must submit an annual ophthalmologist's or optometrist's report; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 178 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–26582 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2006–26653; FMCSA–2007–27333; FMCSA–2008–0021; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2010–0327; FMCSA–2010–0413; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2012–0338; FMCSA–2013–0022; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2014–0305; FMCSA–2014–0048; FMCSA–2015–0049; FMCSA–2015–0052]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 88 individuals from the vision requirement in the Federal Motor Carrier Safety

Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On July 20, 2017, FMCSA published a notice announcing its decision to renew exemptions for 88 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (82 FR 33542). The public comment period ended on August 21, 2017 and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this preceding.

VI. Conclusion

Based upon its evaluation of the 88 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the vision requirement in 49 CFR 391.41 (b)(10):

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of July and are discussed below:

As of July 2, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 32 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (70 FR 2701; 70 FR 16887; 70 FR 17504; 70 FR 30997; 72 FR 8417; 72 FR 27624; 72 FR 36099; 73 FR 15567; 73 FR 27015; 74 FR 7097; 74 FR 11988; 74 FR 15584; 74 FR 19270; 74 FR 21427; 74 FR 21796; 74 FR 26466; 75 FR 19674; 75 FR 65057; 76 FR 17481; 76 FR 25762; 76 FR 25766; 76 FR 28125; 76 FR 37173; 76 FR 37885; 77 FR 23797; 77 FR 74731; 78 FR 800; 78 FR 12811; 78 FR 12815; 78 FR 22596; 78 FR 22602; 78 FR 24300; 78 FR 26106; 78 FR 37270; 78 FR 57679; 79 FR 23797; 80 FR 603; 80 FR 12248; 80 FR 14220; 80 FR 14223; 80 FR 16502; 80 FR 18696; 80 FR 22773; 80 FR 25766; 80 FR 26139; 80 FR 26320; 80 FR 29152; 80 FR 31640; 80 FR 31957; 80 FR 33011; 80 FR 45573; 80 FR 48409):

Michael W. Anderson (NM)
Michael R. Bradford (MD)
Ralph H. Bushman (IL)
William D. Cardiff (IL)
John J. Caricola, Jr. (NC)
Adan Cortes-Juarez (WA)
David L. Ellis (OK)
Denise M. Engle (GA)
Robert A. Goerl, Jr. (PA)
Wade M. Hillmer (MN)
Paul M. Hinkson (TN)
Michael W. Jensen (CA)
Clifford D. Johnson (VA)
Michael Lafferty (ID)
Mark L. LeBlanc (MN)
Michael J. McGregan (FL)
Felix L. McLean (NM)
Anthony R. Miles (NV)
Jerry D. Paul (OK)
John P. Perez (FL)
Raymond W. Pitts (FL)
William A. Ramirez Vasquez (CA)
Donald W. Randall (OR)
Raymond Sherrill (PA)
Kyle C. Shover (NJ)
Charles H. Smith (IN)
George Stapleton (GA)
David B. Stone (OK)
David M. Stout (OR)
James K. Waites (AR)
John E. Westbrook (LA)
Jason R. White (OH)

The drivers were included in docket numbers FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2006–26653; FMCSA–2008–0021; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0327; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2012–0338; FMCSA–2013–0022; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2014–0305; FMCSA–2015–0048. Their exemptions are applicable as of July 2, 2017, and will expire on July 2, 2019.

As of July 7, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (80 FR 31636; 80 FR 48413):

Robert A. Buckley (IN)
Jose J. Guzman-Olguin (IL)
Stephen T. Hines (NJ)
James J. Keranen (MI)
Herbert S. Lear (PA)
Nathan C. Nissen (IA)
Gregory S. Richter (PA)
George Tomecek (PA)

The drivers were included in docket number FMCSA–2015–0049. Their exemptions are applicable as of July 7, 2017, and will expire on July 7, 2019.

As of July 9, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (78 FR 41188; 78 FR 27281; 78 FR 41188; 80 FR 33007):

Brian G. Dvorak (IL)
Charles T. Spears (VA)
Brian E. Tessman (WI)
Gregory J. Thurston (PA)
Donald Torbett (IA)

The drivers were included in docket number FMCSA–2013–0028. Their exemptions are applicable as of July 9, 2017, and will expire on July 9, 2019.

As of July 16, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (74 FR 26461; 74 FR 34630; 76 FR 1493; 76 FR 12408; 76 FR 37168; 78 FR 51269):

Steven L. Forristall (WI)
Rocky D. Gysberg (MN)
Charles H. Lefew (VA)
Joseph B. Peacock (NC)
James M. Tennyson (MD)
Steven L. Thomas (IN)
Daniel A. Wescott (CO)

The drivers were included in docket numbers FMCSA–2009–0413; FMCSA–2009–0121. Their exemptions are applicable as of July 16, 2017, and will expire on July 16, 2019.

As of July 22, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 12 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (72 FR 72666; 72 FR 25831; 74 FR 19270; 76 FR 29022; 76 FR 34135; 76 FR 44082; 78 FR 34140; 78 FR 51268; 80 FR 36398):

Stanley C. Anders (SD)
Joel A. Cabrera (FL)
Sherman W. Clapper (ID)
Eric Esplin (UT)
Ronald R. Fournier (NY)
Ronald D. Jackman II (NV)
Thomas W. Kent (IN)
Robert J. MacInnis (MA)
Steven A. Proctor (TX)
Rodney W. Sukalski (MN)
Larry D. Warneke (WA)
Lonnie Wendinger (MN)

The drivers were included in docket numbers FMCSA–2007–27333; FMCSA–2011–0102. Their exemptions are applicable as of July 22, 2017, and will expire on July 22, 2019.

As of July 23, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 19 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (80 FR 35699; 80 FR 48404):

Robert J. Bickel (MI)
Steven R. Brinegar (TX)
Garry D. Burkholder (PA)
Dennis W. Cosens (NM)
William J. Garigulo (OH)
Wladyslaw Gogola (IL)
Antonio Gomez (PA)
Mark A. Grenier (CT)
Acquillious Jackson, III (SC)
Jimmy D. Johnson, II (TN)
Bradley J. Kearl (UT)
Larry G. Kreke (IL)
Christopher P. Mrockza (MD)
Gary A. Oster (OR)
Mark A. Pleskovitch (IL)
Edward J. Puto (CT)
Andrew P. Risner (OH)
Kyle B. Sharp (MI)
Francis A. St. Pierre (NH)

The drivers were included in docket number FMCSA–2015–0052. Their exemptions are applicable as of July 23, 2017, and will expire on July 23, 2019.

As of July 31, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (76 FR 25766; 76 FR 37885; 78 FR 37270; 80 FR 31640):

Anthony Luciano (CT)
David McKinney (OR)
Frank L. O'Rourke (NY)
Larry F. Reber (OH)
Edward Swaggerty, Jr. (OH)

The drivers were included in docket number FMCSA–2011–0192. Their exemptions are applicable as of July 31, 2017, and will expire on July 31, 2019.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–26596 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0024]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 16 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before January 10, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2017–0024 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001,

fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The 16 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

II. Qualifications of Applicants

Eric J. Andersen

Mr. Andersen, 48, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''I certify that in my medical opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Andersen reported that he has driven straight trucks for two years, accumulating 60,000 miles. He holds a Class B CDL from Connecticut. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Mason M. Arends

Mr. Arends, 40, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2017, his optometrist stated, ''Mr. Arends does have sufficient vision to meet the requirements for a commercial driving license.'' Mr. Arends reported that he has driven straight trucks for six years, accumulating 141,120 miles. He holds a Class B CDL from Colorado. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Darin P. Ball

Mr. Ball, 48, has had optic atrophy in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2017, his optometrist stated, ''It is my impression that Darin is safe to drive a commercial vehicle due to excellent vision OD, as is evidenced by his history of driving very large vehicles/equipment for the fire department.'' Mr. Ball reported that he has driven straight trucks for 29 years, accumulating 754,000 miles. He holds an operator's license from New York. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Freddie L. Boyd

Mr. Boyd, 63, has keratoconus in his left eye since 2000. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''Freddie

has sufficient enough vision to operate a commercial vehicle.'' Mr. Boyd reported that he has driven tractor-trailer combinations for seven years, accumulating 882,000 miles. He holds a Class C CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Larry W. Buchanan, Jr.

Mr. Buchanan, 50, has had optic atrophy in his right eye since 2000. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''He has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Buchanan reported that he has driven straight trucks for 27 years, accumulating 140,400 miles, and tractor-trailer combinations for 27 years, accumulating 13,500 miles. He holds a Class A CDL from New Mexico. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Gerald R. Eister

Mr. Eister, 53, has a retinal detachment in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2017, his optometrist stated, ''Since he has had the central vision loss of the left eye since he was around 16 and has been stable and will continue to stay the same and knows no other difference, I feel he is safe to continue to operate a commercial vehicle like he has for the last 37 years.'' Mr. Eister reported that he has driven straight trucks for 32 years, accumulating 998,400 miles and tractor-trailer combinations for 14 years, accumulating 140,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Joseph A. Kennedy

Mr. Kennedy, 67, has a prosthetic left eye due to a traumatic incident in 2014. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, ''Mr. Kennedy's vision of 20/15 in the right eye allows him to operate a commercial motor vehicle . . . '' Mr. Kennedy reported that he has driven buses for nine years, accumulating 580,500 miles. He holds an operator's license from Maine. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kent E. Kirchner

Mr. Kirchner, 48, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''Mr. Kirchner, in my opinion, has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kirchner reported that he has driven tractor-trailer combinations for ten years, accumulating 585,000 miles. He holds a Class A CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Veronica D. Lowe

Ms. Lowe, 41, has had a corneal scar in her left eye since 2004. The visual acuity in her right eye is 20/20, and in her left eye, 20/100. Following an examination in 2017, her optometrist stated, ''It is my professional opinion that Veronica does have sufficient vision to perform all driving tasks required to operate a commercial motor vehicle.'' Ms. Lowe reported that she has driven tractor-trailer combinations for five years, accumulating 375,000 miles. She holds a Class A CDL from Idaho. Her driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Michael P. Meyer

Mr. Meyer, 36, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2017, his optometrist stated, ''In my medical opinion Michael has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Meyer reported that he has driven straight trucks for 21 years, accumulating 168,000 miles, and buses for ten years, accumulating 2,000 miles. He holds an operator's license from Wisconsin. His driving record for the last three years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 15 mph.

Christopher T. Peevyhouse

Mr. Peevyhouse, 39, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2017, his optometrist stated, ''Chris continues to have sufficient vision to perform the tasks of operating a commercial vehicle.'' Mr. Peevyhouse reported that he has driven straight trucks for nine years, accumulating 166,500 miles. He holds a Class A CDL from Tennessee. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

William L. Richardson Jr.

Mr. Richardson, 34, has a retinal scar in his left eye due to a traumatic incident in 1999. The visual acuity in his right eye is 20/15, and in his left eye, light perception. Following an examination in 2017, his optometrist stated, ''Mr. Richardson has sufficient visual ability to operate a Commercial Vehicle.'' Mr. Richardson reported that he has driven straight trucks for 15 years, accumulating 117,000 miles. He holds an operator's license from Indiana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Russell J. Soland

Mr. Soland, 64, has had a corneal scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''In my opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Soland reported that he has driven straight trucks for 14 years, accumulating 84,000 miles. He holds a Class B CDL from Minnesota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

William L. Sunkler

Mr. Sunkler, 52, has had nystagmus in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/25. Following an examination in 2017, his optometrist stated, ''Patient demonstrates sufficient vision to operate a commercial vehicle with corrective lenses'' Mr. Sunkler reported that he has driven tractor-trailer combinations for 30 years, accumulating 2.1 million miles. He holds a Class A CDL from Oregon. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Brian J. Tegeler

Mr. Tegeler, 55, has macular edema in his left eye since 2013. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2017, his optometrist stated, ''In my professional opinion, Mr. Brian Tegeler

has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Tegeler reported that he has driven straight trucks for 36 years, accumulating 288,000 miles. He holds a Class A CDL from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

William H. Wrice, Jr.

Mr. Wrice, 51, has had a chorioretinal scar in his right eye since 2012. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, ''In my opinion the candidate's vision function is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Wrice reported that he has driven straight trucks for ten years, accumulating 120,000 miles, and tractor-trailer combinations for two years, accumulating 60,000 miles. He holds a Class A CDL from Ohio. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0024 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2017–0024 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: December 4, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–26595 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2017–0002–N–25]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Interested persons are invited to submit comments on or before February 9, 2018.

ADDRESSES: Submit written comments on the ICR activities by mail to either: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590; or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB Control Number 2130–0500,'' and should also include the title of the ICR. Alternatively, comments may be faxed to (202) 493–6216 or (202) 493–6497, or emailed to Mr. Brogan at *Robert.Brogan@dot.gov,* or Ms. Toone at *Kim.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8–12. Specifically, FRA invites interested parties to comment on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment will promote its efforts to reduce the administrative and

paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) ensure that it organizes information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Accident/Incident Reporting and Recordkeeping.

OMB Control Number: 2130–0500.

Abstract: The collection of information is due to the railroad accident reporting regulations in 49 CFR part 225 that generally require railroads to submit monthly reports summarizing collisions, derailments, and certain other accidents/incidents involving damages above a periodically revised dollar threshold, as well as certain injuries to passengers, employees, and other persons on railroad property. Because the reporting requirements and the information needed regarding each category of accident/incident are unique, a different form is used for each category.

FRA hereby informs the regulated community of railroads and the general public that it is revising the instructions for Form FRA F 6180.57, Highway-Rail Grade Crossing Accident/Incident Report, to capture information concerning post-accident toxicological testing for certain human-factor, highway-rail grade crossing accidents and incidents in the narrative block of this form. The newly revised 49 Code of Federal Regulations (CFR) 219.201(a), effective on June 12, 2017, requires post-accident toxicological testing of railroad employees when one or more of five specific requirements are met for certain human-factor categories of highway-rail grade crossing accidents and incidents. *See* 81 FR 37894 (June 10, 2016).

FRA will begin the process to add a block to Form FRA F 6180.57 to accommodate this requirement. In the interim, if railroads perform drug and alcohol testing on any employee involved in a highway-rail grade crossing accident, FRA is requesting the railroad place the drug and alcohol coding information in Item No. 54, ''Narrative Description,'' of Form FRA F 6180.57.

In accordance with the requirements of the PRA (44 U.S.C. 3501–3520) and its implementing regulations (5 CFR 1320.5–12), FRA published the two required **Federal Register** notices for public comment and then transmitted to OMB in March 2017 its renewal submission for this information collection. This submission increased the agency estimate of the annual number of forms completed for Form FRA F 6180.57 by 160 forms from the previously approved submission to OMB (from 2,000 to 2,160 forms). FRA estimated two hours as the average burden time to complete Form FRA F 6180.57, including the time for the information placed in the narrative block of the form. OMB cleared this renewal submission on June 2, 2017, approving a total burden of 46,577 hours and 109,440 responses and extended the previous clearance for another three years. The new expiration date for this information collection is now June 30, 2020. FRA now seeks approval for this change to the Form F 6180.57 instructions while requesting no change to the number of burden hours and burden responses.

Form Number(s): FRA F 6180.39i; 54; 55; 55A; 56; 57; 78; 81; 97; 98; 99;107; 150.

Affected Public: Businesses.

Respondent Universe: 744 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
225.6–Consolidated Reporting—Request to FRA by parent corporation to treat its commonly controlled carriers as a single railroad carrier for purposes of this part.	744 railroads	1 request	40 hours	40
—Written agreement by parent corporation with FRA on specific subsidiaries included in its railroad system.	744 railroads	1 agreement	2 hours	2
—Notification by parent corporation regarding any change in the subsidiaries making up its railroad system and amended written agreement with FRA.	744 railroads	1 notification + 1 amended agreement.	60 minutes	2
225.9—Telephonic Reports of Certain Accidents/Incidents and Other Events.	744 railroads	2,400 phone reports	15 minutes	600
225.11—Reporting of Rail Equipment Accidents/Incidents—Form FRA F 6180.54.	744 railroads	1,400 + 500 + 640 forms.	2 hours/1 hour/123 minutes.	4,612
225.12—Rail Equipment Accident/Incident Reports Alleging Human Factor as Cause—Form FRA F 6180.81.	744 railroads	952 forms	15 minutes	238
—Part I Form FRA F 6180.78 (Notices)	744 railroads	800 notices + 4,010 copies.	10 minutes + 3 minutes	334
—Joint operations	744 railroads	100 requests	20 minutes	33
—Late identification	744 railroads	20 attachment + 20 notices.	15 minutes	10
—Employee statement supplementing Railroad Accident Report (Part II Form FRA F 6180.78).	Railroad employees	60 statements	1.5 hours	90
—Employee confidential letter	Railroad employees	10 letters	2 hours	20
225.13—Late Reports—Railroad discovery of improperly omitted Report of Accident/Incident.	744 railroads	25 late reports	1 hour	25
—Railroad late/amended Report of Accident/Incident based on employee statement supplementing Railroad Accident Report.	744 railroads	25 amended reports + 40 copies.	1 hour + 3 minutes	27

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
225.18—Railroad narrative report of possible alcohol/drug involvement in accident/incident.	744 railroads	12 reports	30 minutes	6
—Reports required by section 219.209(b) appended to rail equipment accident/incident report.	744 railroads	5 reports	30 minutes	3
225.19—Rail-Highway Grade Crossing Accident/Incident Report—Form FRA F 6180.57.	744 railroads	1,900 + 260 forms	2 hours/1 hour	4,060
—Death, Injury, or Occupational Illness (Form FRA F 6180.55a).	744 railroads	9,578 + 454 + 345 forms.	60 min./60 min 195 min..	11,1153
225.21—Railroad Injury and Illness Summary: Form FRA F 6180.55.	744 railroads	8,928 forms	10 minutes	1,488
225.21—Annual Railroad Report of Employee Hours and Casualties, By State—Form FRA F 6180.56.	744 railroads	744 forms	15 minutes	186
225.21/25—Railroad Employee Injury and/or Illness Record—Form FRA F 6180.98.	744 railroads	13,700 forms	60 minutes	13,700
—Copies of forms to employees	744 railroads	411 form copies	14.	
225.21—Initial Rail Equipment Accident/Incident Record—Form FRA F 6180.97.	744 railroads	11,870 forms	30 minutes	5,935
—Completion of Form FRA F 6180.97 because of rail equipment involvement.	744 railroads	1 form	30 minutes	1
225.21—Alternative Record for Illnesses Claimed to Be Work Related—Form FRA F 6180.107.	744 railroads	300 forms	75 minutes	375
225.21—Highway User Statement—Railroad cover letter and Form FRA F 6180.150 sent out to potentially injured travelers involved in a highway-rail grade crossing accident/incident.	744 railroads	1,035 letters/forms	50 minutes	863
—Form FRA F 6180.150 completed by highway user and sent back to railroad.	950 Injured Individuals	725 forms	45 minutes	544
225.25(h)—Posting of Monthly Summary	744 railroads	8,928 lists	5 minutes	744
225.27—Retention of Records	744 railroads	13,700 records	2 minutes	457
—Record of Form FRA F 6180.107	744 railroads	300 records	10.	
—Record of Monthly Lists	744 railroads	8,928 records	2 minutes	298
—Record of Form FRA F 6180.97	744 railroads	11,760 records	2 minutes	392
—Record of Employee Human Factor Attachments.	744 railroads	2 minutes	58.	
225.33—Internal Control Plans—Amendments	744 railroads	10 amendment	6 hours	60
225.35—Access to Records and Reports	15 railroads	200 lists	20 minutes	67
225.37—Optical Media Transfer of Reports, Updates, and Amendments.	8 railroads	200 transfers	3 minutes	10
—Electronic Submission of Reports, Updates, and Amendments.	744 railroads	2,400 submissions	3 minutes	120

Total Responses: 109,440.

Estimated Total Annual Burden: 46,577 hours.

Status: Extension of a currently approved information collection.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Deputy Chief Counsel.

[FR Doc. 2017–26625 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2017–0002–N–26]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Information Collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA), this notice announces that FRA is forwarding the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On September 13, 2017, FRA published a notice providing a 60-day period for public comment on the ICRs.

DATES: Interested persons are invited to submit comments on or before January 10, 2018.

ADDRESSES: Submit written comments on the ICRs to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of

Administration, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8–12. On September 13, 2017, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 82 FR 43079. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Identification of Cars Moved under 49 CFR 232.3(d) (Formerly Order 13528).

OMB Control Number: 2130–0506.

Abstract: This collection of information identifies certain railroad freight cars authorized to move under 49 CFR 232.3(d) (formerly Interstate Commerce Commission Order 13528). Paragraph (d) of 49 CFR 232.3 allows for the movement of certain railroad freight cars without air brakes from initial terminal locations or through interchange locations under certain conditions.

Paragraph (d) of 49 CFR 232.3 requires the cars to be identified by a card attached to the side of the equipment specifically noting and signed by the shipper that the car is being moved under the authority of that paragraph. Railroads typically use carrier bad order forms or tags for these purposes. These forms are readily available from all carrier repair facilities. If a car moving under 49 CFR 232.3(d) is not properly tagged, a carrier is not allowed to move the car. Section 232.3(d)(3) does not require carriers or shippers to retain cards or tags. When a car bearing the two tags for movement under this provision arrives at its destination, the tags are simply removed. FRA estimates approximately 400 cars per year are moved under this regulation. Railroad employees use the information collected to ensure that cars moved in accordance with Order 13528 arrive at the correct destination. These records are not maintained for the purpose of information collection per se.

Type of Request: Extension without change of a current information collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 755 railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 800.

Total Estimated Annual Burden: 67 hours.

Title: U.S. Locational Requirement for Dispatching U.S. Rail Operations.

OMB Control Number: 2130–0556.

Abstract: With one exception, 49 CFR part 241 requires, in the absence of a waiver, that all dispatching of railroad operations occurring in the United States be performed in the United States. A railroad may, however, conduct dispatching from Mexico or Canada in an emergency, but only for the duration of the emergency. A railroad relying on this exception must provide written notification of its action to the FRA Regional Administrator of each FRA region in which the railroad emergency operation occurs as soon as practicable; such notification is not required before addressing the emergency. The information collected under this rule is used as part of FRA's oversight function to ensure that extraterritorial dispatchers comply with applicable safety regulations.

Type of Request: Extension without change of a current information collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 4 railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 1.

Total Estimated Annual Burden: 8 hours.

Title: Safety and Health Requirements Related to Camp Cars.

OMB Control Number: 2130–0595.

Abstract: Subparts C and E of 49 CFR part 228 address the construction of railroad-provided sleeping quarters (camp cars) and set certain safety and health requirements for such camp cars. Specifically, subpart E of part 228 prescribes minimum safety and health requirements for camp cars that a railroad provides as sleeping quarters to any of its train employees, signal employees, or dispatching service employees (covered-service employees), and individuals employed to maintain its right-of-way. Subpart E requires railroad-provided camp cars to be clean, safe, sanitary, and equipped with indoor toilets, potable water, and other features to protect the health of car occupants. Subpart C of part 228 prohibits a railroad from positioning a camp car intended for occupancy in the immediate vicinity of a switching or humping yard which handles railcars containing hazardous material (*see* 49 CFR 228.102). Generally, the requirements of subparts C and E of part 228 are intended to provide covered-service employees an opportunity for rest free from the interruptions caused by noise under the control of the railroad.

The information collected under this rule is used by FRA to ensure railroads operating camp cars comply with all the requirements mandated in this regulation to protect the health and safety of camp car occupants. Specifically, the information collected is used by FRA inspectors to verify that railroads operating camp cars inspect each water hydrant, hose, or nozzle used for supplying potable water to a camp car water system prior to use and keep records of these inspections required under § 228.323. Each such hose or nozzle used must be cleaned and sanitized as part of the inspection. A signed, dated record of this inspection must be kept within the camp for the period of the connection. When the connection is terminated, a copy of each

of these records must be submitted promptly to a centralized location for the railroad and maintained for one year from the date the connection was terminated. Review of the required record enables FRA inspectors to closely monitor water hydrants, hoses, and nozzles used for supplying potable water to a camp car water system are properly cleaned, sanitized, and inspected in order to prevent camp car occupants from drinking contaminated water. The information collected under § 228.323 is also used by FRA to confirm that only trained individuals are permitted to fill the potable water systems.

Furthermore, under this section, FRA inspectors verify that railroads keep essential certification records/copies regarding the safety of potable water from a different local source. The requirement states that each time that potable water is drawn from a different local source, the railroad must obtain a certificate from a State or local health authority indicating that the water from this source is of a quality not less than that prescribed in the National Primary Drinking Water Regulations promulgated by the U.S. Environmental Protection Agency or obtain such a certificate by a certified laboratory following testing for compliance with those standards. The current certification must be kept within the camp for the duration of the connection. When the connection is terminated, a copy of each of these records must be submitted promptly to a centralized location for the railroad and maintained for one year from the date the connection was terminated. Certification by a State or local health authority or testing by a certified laboratory and FRA review of certification records help ensure that drinking water used by camp car occupants meets Federal standards and is safe for consumption.

Also, under § 228.323, FRA inspectors verify that necessary flushing records are kept by railroads operating camp cars. Under the requirement, each potable water system must be drained and flushed with a disinfecting solution at least once every 120 days. The railroad must maintain a record of the draining and flushing of each separate system within the camp for the last two drain and flush cycles. The record must contain the date of the work and the name(s) of the individual(s) performing the work. The original record must be maintained with the camp. A copy of each of these records must be sent to a centralized location for the railroad and maintained for one year. To be safe for consumption by camp car occupants, it is critical that potable water systems be drained and flushed periodically with a disinfecting solution to prevent the growth of bacteria that causes sickness. FRA closely monitors the required flushing and taste records to ensure that this necessary task is completed on a continuing basis while camp cars are operational, especially when camp car occupants report experiencing taste problems with the drinking water.

Under § 228.331, FRA ensures that any railroad using camp cars submits a master emergency preparedness plan pertaining to life safety and prominently display a copy of this plan in all their camp cars so that all camp occupants can view it at their convenience. FRA reviews each plan to ensure that it addresses the following items: (1) The means used to be aware of and notify all occupants of impending weather threats, including thunderstorms, tornados, hurricanes, floods and other major weather related risks; (2) shelter-in-place and emergency-evacuation instructions for each of the specific threats identified; and (3) the address and telephone number of the nearest emergency medical facility and directions on how to get there from the camp car. Camp car occupants use this information to take necessary action to protect their lives and health.

Finally, under § 228.333, railroads must take remedial action within 24 hours after receiving a good faith notice from a camp car occupant or an employee labor organization or notice from FRA of non-compliance with this subpart E. Railroads use the good faith notices or notice from FRA to correct each non-complying condition on a camp car. If the non-complying condition is not correctable, the railroad has to cease use of the camp car as sleeping quarters for each occupant. FRA inspectors use this information to ensure that railroads take necessary remedial actions for camp cars with non-complying conditions.

Type of Request: Extension without change of a current information collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 1 railroad.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 11,206.

Total Estimated Annual Burden: 1,043 hours.

Title: Training, Qualification, and Oversight for Safety-Related Railroad Employees.

OMB Control Number: 2130–0597.

Abstract: On November 7, 2014, FRA published a final rule—amendments to 49 CFR parts 214 and 232 and new part 243—establishing minimum training standards for all safety-related railroad employees, as required by the Rail Safety Improvement Act of 2008. Part 243 requires each railroad or contractor that employs one or more safety-related employees to develop and submit a training program to FRA for approval and to designate the minimum training qualifications for each occupational category of employee. Part 243 also requires most employers to conduct periodic oversight of their own employees and annual written reviews of their training programs to close performance gaps.

Additionally, amended part 214 requires specific training and qualification of operators of roadway maintenance machines that can hoist, lower, and horizontally move a suspended load.

Finally, part 232 clarifies the existing training requirements for railroad and contractor employees who perform inspections, tests, or maintenance of brake system.

FRA uses the information collected to ensure each employer—railroad or contractor—conducting operations subject to new part 243, and railroads subject to amended parts 214 and 232 as appropriate, have developed, adopted, modified, submitted, and complied with a training program for each category and subcategory of safety-related railroad employee. Each program must have training components identified so that FRA will understand how the program works when it reviews the program for approval. Further, FRA reviews the required training programs to ensure they include the following: Initial, ongoing, and on-the-job criteria; testing and skills evaluation measures designed to foster continual compliance with Federal standards; and the identification of critical safety defects and plans for immediate remedial actions to correct them.

In response to petitions for reconsideration, FRA has extended the effective date for developing the required training program under § 243.101 for employers with 400,000 or more total annual employee work hours to January 1, 2019, and for employers with less than 400,000 total annual employee work hours to May 1, 2020.

Type of Request: Extension with change of a current information collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 1,550 railroads/contractors/training organizations/learning institutions.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 71,752.

Total Estimated Annual Burden: 281,752 hours.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Deputy Chief Counsel.

[FR Doc. 2017–26626 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 2017–0026]

Notice of Request for Revisions of an Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the revisions of the following information collection: Clean Fuel Cell Grant Program.

DATES: Comments must be submitted before February 9, 2018.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Vanessa Williams, Office of Program Management (202) 366–4818 or email: *Vanessa.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Clean Fuel Cell Grant Program (OMB Number: 2132–0573).

Background: The Clean Fuels Grant Program was developed to assist non-attainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). The program also supported emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies. The Clean Fuels Grant Program was repealed under the Moving Ahead for Progress in the 21st Century Act (MAP–21). However, funds previously authorized for programs repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated.

Estimated Number of Annual Respondents: 17.

Estimated Total Annual Burden: 68 hours.

Frequency: Annually.

William Hyre,

Deputy Associate Administrator for Administration.

[FR Doc. 2017–26574 Filed 12–8–17; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces a final environmental action taken by the Federal Transit Administration (FTA) for a project in Los Angeles County, California. The purpose of this notice is to announce publicly the environmental decision by FTA on the subject project and to activate the limitation on any claims that may challenge this final environmental action.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before May 10, 2018.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Alan Tabachnick, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–8541. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency action by issuing a certain approval for the public transportation

project listed below. The action on the project, as well as the laws under which such action was taken, is described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the project. Interested parties may contact either the project sponsor or the FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such action was taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The project and action that are the subject of this notice follows:

Project name and location: Section 2 of the Westside Purple Line Extension Project in Los Angeles County, California (the ''Project''). *Project Sponsor:* Los Angeles County Metropolitan Transportation Authority (LACMTA). *Project description:* The Westside Purple Line Extension Project, formerly Westside Subway Extension Project, would implement a heavy rail transit subway extension of the Metro Purple Line from its current western termini at Wilshire/Western Station to a new western terminus near the West Los Angeles Veterans Affairs (VA) Hospital. The extension will be approximately 9 miles and will include seven new stations. On November 22, 2017, FTA and the LACMTA, issued a Final Supplemental Environmental Impact Statement and Supplemental Record of Decision (SEIS/Supplemental ROD) and Section 4(f) Evaluation. The SEIS/Supplemental ROD was prepared as required by the U.S. District Court for the Central District of California's Order dated August 12, 2016, in *Beverly Hills Unified School District* v. *Federal Transit Administration, et al.,* Case No. CV 12–9861–GW(SSx). The documents provide additional analysis of Section 2 of the Project between the Wilshire/Rodeo and Century City Constellation Station, which was previously examined in the Final Environmental Impact Statement/Environmental Impact Report (Final EIS–2012) and the Record of Decision (ROD–2012) issued on August 9, 2012.

Final agency actions: Section 4(f) determination; finding that the previous finding of effect under Section 106 remains appropriate per 36 CFR 800.5(d)(2), with concurrence from the California State Historic Preservation Officer; project-level air quality conformity; and Supplemental Record of Decision, dated November 22, 2017. *Supporting documentation:* Final SEIS and Section 4(f) Evaluation, dated November 2017.

Lucy Garliauskas,

Associate Administrator Planning and Environment.

[FR Doc. 2017–26563 Filed 12–8–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 10, 2018.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 5, 2017.

Donald Burger,

Chief, General Approvals and Permits Branch.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA				
20581–N		HARMS PACIFIC TRANSPORT INC.	180.417(a)(3)	To authorize the transportation in commerce of cargo tanks manufactured after August 31, 1995 for which the Manufacturer's Certificate of Compliance is missing. (Mode 1).
20584–N		BATTERY SOLUTIONS, LLC.	173.185(f)(3)	To authorize the manufacture, mark, sale, and use of certain drums for the transportation in commerce of certain damaged or defective lithium ion cells and batteries and lithium metal cells and batteries. (Modes, 1, 2, 3)

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20588–N		Nantong Tank Container Co., Ltd.	178.274(b)	To authorize the manufacture, marking, sale and use of UN portable tanks conforming to portable tank code T50 that have been designed, constructed and stamped in accordance with Section VIII, Division 2 of the ASME Code (plus applicable Code Cases) as the primary pressure vessel code based upon a design reference temperature of 46.10 °C (115 °F). (Modes 1, 2, 3)
20591–N		RAYTHEON COMPANY	173.302	To authorize the manufacture, mark, sale, and use of non-DOT specification cylinders for transportation of hazardous materials in commerce. (Mode 1)
20592–N		AEROJET ROCKETDYNE, INC.	173.56(b)	To authorize the one time transportation of Class 1 materials that no longer in the form previously approved under an EX approval. (Mode 1)
20593–N		TRANSPORT LOGISTICS INTERNATIONAL, INC.	173.420(a)(5)	To authorize the one-time, one-way transportation in commerce of cylinders filled in excess of the authorized filling limits. (Mode 1)
20594–N		Sherwin-Williams Manufacturing Company.	172.400, 172.500, 172.200, 172.300, 173.1.	To authorize the transportation in commerce of certain hazardous materials without being subject to certain packaging, labeling, marking, placarding, and shipping papers requirements. (Mode 1).

[FR Doc. 2017–26600 Filed 12–8–17; 8:45 am]
BILLING CODE 4901–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before January 10, 2018.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 5, 2017.

Donald Burger,

Chief, General Approvals and Permits Branch.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
		SPECIAL PERMITS DATA		
7573–M		DEPARTMENT OF DEFENSE (MILITARY SURFACE DEPLOYMENT & DISTRIBUTION COMMAND).	Parts 172 and 175	To modify the special permit to authorize the use of commercial airfields outside of CONUS in accordance with AFMAN 24–204 and Defense Transportation Regulations (DTR).
20352–M		SCHLUMBERGER TECHNOLOGY CORP.	173.301(f), 173.302(a), 173.304(a), 173.304(d), 173.201(c), 173.202(c), 173.203(c).	To modify the special permit to authorize cargo only aircraft transportation and to include additional testing requirements.
20353–N		ACCURAY INCORPORATED.	173.302(a), 175.3, 172.400, 172.301(c).	To authorize the transportation in commerce of Xenon gas in a non-DOT specification container (detector), either shipped alone or as an integral part of a gantry assembly.
20380–N		WESTERN INTERNATIONAL GAS & CYLINDERS, INC.	172.101	To authorize the transportation in commerce of acetylene that is not dissolved in a solvent.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20385–N		CMV SRL	173.302(a), 173.304(a)	To authorize the manufacture, mark, sale and use of non-DOT specification cylinders that meet the ISO 9809–2:2010 standard except for the design water capacity.
20395–N		CARLETON TECHNOLOGIES, INC.	173.304(a), 180.207	To authorize the manufacture, mark, sale and use of a non-DOT specification fully wrapped carbon-fiber reinforced, aluminum-lined composite cylinders conforming to ISO Standard 11119–2, except as specified herein, for the transportation in commerce of Division 2.1 and 2.2 hazardous materials.
20455–N		LUXFER INC	180.205, 173.302(a)	To authorize the manufacture, mark, sale and use of a non-DOT specification fully wrapped carbon fiber composite cylinder with a load sharing aluminum liner for the transport of the hazardous materials authorized in this special permit.
20481–N		ADVANCED GREEN INNOVATIONS, LLC.	173.212	To authorize the manufacture, mark, sale, and use of non-DOT specification pressure vessels for the transportation of certain Division 4.2 materials.
20490–N		ROTAK LLC	172.101(j), 172.200, 172.204(c)(3), 172.301(c), 175.30(a)(1), 175.75, 173.27(b)(2).	To authorize the transportation in commerce of certain hazardous materials which are forbidden for transportation by air or exceed quantity limitations, to be transported by cargo aircraft either inside the aircraft or in external load configuration within the state of Alaska and the 48 contiguous states when other means of transportation are impracticable or not available.
20491–N		ROTAK LLC	172.101(j), 172.204(c)(3), 172.301(c), 175.30(a)(1), 175.75, 173.27(b)(2).	To authorize the transportation in commerce of certain class 1 hazardous materials which are forbidden for transportation by air, to be transported in Part 133 rotorcraft external load operations attached to or suspended from an aircraft, in remote areas of the State of Alaska and the contiguous 48 states, without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements.
20502–N		SPENCER COMPOSITES CORPORATION.	173.302(a), 173.304(a)	To authorize the manufacture, mark, sale and use of non-DOT specification subsea sampling cylinders (similar to oil well sampling cylinders) without pressure relief device(s).
20503–N		DYNO NOBEL INC	177.835(a), 177.835(c)(3), 177.848(e)(2), 177.848(g)(3).	To authorize the transportation in commerce of certain oxidizing materials by motor vehicle in accordance with International Makers of Explosives Safety Library Publication (IME SLP) 23 incorporated by reference.
20511–N		ARMOTECH s.r.o	173.301(a)(1), 173.302(a)(1), 173.302(f)(1), 173.302(f)(2), 178.71(q), 178.71(t).	To authorize the transportation in commerce of non-DOT specification cylinders containing oxygen.
20517–N		ADVANCE RESEARCH CHEMICALS, INC.	173.205	To authorize the transportation in commerce cylinders containing Iodine Pentafluoride UN 2495 to be imported from India.
20528–N		TRIEST AG GROUP, INC	180.205(g)	To authorize the use of the proof pressure test in lieu of the volumetric expansion test as the method of requalifying DOT–4BW240 cylinders.
20538–N		AXELA MEDICAL SUPPLIES.	173.13	To authorize the transportation in commerce of corrosive liquids without being labeled.
20540–N		LINDE GAS NORTH AMERICA LLC.	173.163(b)	To authorize the transportation in commerce of DOT specification 3A and 3AA cylinders containing certain hazardous materials after previously containing hydrogen fluoride.
20556–N		SAFT AMERICA INC	172.101(j)	To authorize the transportation in commerce of lithium ion batteries in excess of 35 kg by cargo-only aircraft.
20557–N		XCALIBUR LOGISTICS, LLC.	180.407(b)(5), 180.407(c), 180.407(c).	To authorize the transportation in commerce of petroleum crude oil in cargo tanks which are overdue for inspection.
20575–N		WORTHINGTON CYLINDER CORPORATION.	173.302	To authorize the manufacture, mark, sale, and use of non-DOT specification cylinders.
20580–N		MID ATLANTIC REGION MAINT.	107.805(c)(1), 107.805(c)(2).	To modify the special permit to include new users.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20585–N		ATLAS AIR, INC	172.101(j), 172.204(c)(3), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To authorize the transportation in commerce of explosives by cargo only aircraft in amounts forbidden by the regulations.
20586–N		HAZ–MAT RESPONSE, INC..	Parts 171–180	To authorize the transportation in commerce of non-DOT specification cylinders for a limited distance to safely analyze the contents and prepare for shipment in accordance with the HMR.

[FR Doc. 2017–26598 Filed 12–8–17; 8:45 am]

BILLING CODE 4901–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 26, 2017.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 5, 2017.

Donald Burger,

Chief, General Approvals and Permits Branch.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
		SPECIAL PERMITS DATA		
7607–M		THERMO FISHER SCIENTIFIC INC.	172.101(j), 173.306	To modify the special permit to authorize new part numbers and improvements to the cylinders authorized in the permit. (Mode 5).
11323–M		SHARPSVILLE CONTAINER CORPORATION.	173.302a(a)(1), 173.304a(a)(1).	To modify the special permit to authorize an additional stainless steel cylinder. (Modes 1,2,3,4,5).
14313–M		AIRGAS USA LLC	172.203(a), 172.301(c), 173.302a(b), 180.205.	To modify the special permit to remove the requirement for an annual gain control linearity check and replace it with a one time certification from the manufacturer generated at the time of the system manufacture. (Modes 1,2,3,4,5).
15980–M		WINDWARD AVIATION INC.	172.400, 172.200, 172.300, 173.27, 175.33, 175.75.	To modify the special permit to authorize additional Class 2.1, 3, and 8 hazmat. (Mode 4).
20418–M		CIMARRON COMPOSITES, LLC.	173.302(a)	To modify the special permit to authorize an increase in bar pressure from 250 to 300, an increase in volume to 3000 liters and authorize additional hazmat. (Modes 1,2,3).
20441–M		SPACEFLIGHT, INC	173.185(a)	To modify the special permit from emergency to permanent. (Modes 1,4).

[FR Doc. 2017–26599 Filed 12–8–17; 8:45 am]
BILLING CODE 4901–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one person that has been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of this person are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treasury.gov/ofac*).

Notice of OFAC Action

On December 5, 2017, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

1. AL–FAISAL, Abdullah Ibrahim (a.k.a. EL–FAISAL, Abdulla; a.k.a. FAISAL, Abdullah; a.k.a. FORREST, Trevor William), 8 Windsor Road, Spanishtown, Jamaica; DOB 09 Oct 1963; alt. DOB 10 Sep 1963; POB Jamaica; Gender Male; Passport A2791188; National ID No. 119458128 (Jamaica) (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Designated pursuant to section 1(d)(i) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of, ISLAMIC STATE OF IRAQ AND THE LEVANT, a person determined to be subject to E.O. 13224.

Dated: December 5, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–26542 Filed 12–8–17; 8:45 am]
BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the notification requirement for transfer of partnership interest in electing investment partnership.

DATES: Written comments should be received on or before February 9, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notification Requirement for Transfer of Partnership Interest in Electing Investment Partnership (EIP).

OMB Number: 1545–1939.

Notice Number: Notice 2005–32.

Abstract: The American Jobs Creation Act of 2004 amended §§ 734, 743, and 6031 of the Internal Revenue Code. The amendment necessitated the creation of new reporting requirements and procedures for the mandatory basis adjustment provisions of §§ 734 and 743, the procedures for making an electing investment partnership election under § 743(e), and the reporting requirements for electing investment partnerships and their partners. This notice provides interim procedures for partnerships and partners to comply with the mandatory basis adjustment provisions of §§ 734 and 743. This notice also provides interim procedures for electing investment partnerships and their partners to comply with §§ 743(e) and 6031(f).

Current Actions: There are no changes to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization, individuals, or households.

Estimated Number of Respondents: 266,400.

Estimated Time per Respondent: 2 hours, 4 minutes.

Estimated Total Annual Burden Hours: 552,100.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 4, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26630 Filed 12–8–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the statement of liability of lender, surety, or other person for withholding taxes.

DATES: Written comments should be received on or before February 9, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes.

OMB Number: 1545–2254.

Form Number: Form 4219.

Abstract: Third parties who directly pay another's payrolls can be held liable for the full amount of taxes required to be withheld but not paid to the Government (subject to the 25% limitation). IRC 3505 deals with persons who supply funds to an employer for the purpose of paying wages. The notification that a third party is paying or supplying wages will usually be made by filing of the Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes. The Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes, is to be submitted and associated with each employer and for every calendar quarter for which a liability under section 3505 is incurred.

Current Actions: There have been no changes to the form that would affect burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 12 hours, 50 minutes.

Estimated Total Annual Burden Hours: 12,833.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 4, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26629 Filed 12–8–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the statement of liability of lender, surety, or other person for withholding taxes.

DATES: Written comments should be received on or before February 9, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes.

OMB Number: 1545–2254.

Form Number: Form 4219.

Abstract: Third parties who directly pay another's payrolls can be held liable for the full amount of taxes required to be withheld but not paid to the Government (subject to the 25% limitation). IRC 3505 deals with persons who supply funds to an employer for the purpose of paying wages. The notification that a third party is paying or supplying wages will usually be made by filing of the Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes. The Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes, is to be submitted and associated with each employer and for every calendar quarter for which a liability under section 3505 is incurred.

Current Actions: There have been no changes to the form that would affect burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 12 hours, 50 minutes.

Estimated Total Annual Burden Hours: 12,833.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 4, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–26628 Filed 12–8–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2018 World War I Centennial Silver Dollar

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

The United States Mint is announcing pricing for the 2018 World War I Centennial Silver Dollar products as follows:

Coin	Introductory price	Regular price
World War I Centennial Proof Silver Dollar	$51.95	$56.95
World War I Centennial Uncirculated Silver Dollar	48.95	53.95
World War I Centennial Silver Dollar and Air Service Medal Set	N/A	99.95
World War I Centennial Silver Dollar and Army Medal Set	N/A	99.95
World War I Centennial Silver Dollar and Coast Guard Medal Set	N/A	99.95
World War I Centennial Silver Dollar and Marine Corps Medal Set	N/A	99.95
World War I Centennial Silver Dollar and Navy Medal Set	N/A	99.95

FOR FURTHER INFORMATION CONTACT: Ann Bailey, Program Manager for Numismatic and Bullion; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: Public Law 113–212.

Dated: December 6, 2017.

Jean Gentry,

Chief Counsel, United States Mint.

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Part II

Postal Regulatory Commission

39 CFR Parts 3010, 3020, 3050, et al.
System for Regulating Market Dominant Rates and Classifications; Proposed Rule

POSTAL REGULATORY COMMISSION

39 CFR Parts 3010, 3020, 3050, and 3055

[Docket No. RM2017–3; Order No. 4258]

System for Regulating Market Dominant Rates and Classifications

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing rules related to the current system of regulating rates and classes for market dominant products. Proposed rules are the result of a Commission statutory review wherein the Commission was required to review whether the system was achieving the objectives, taking into account the factors, established by Congress under the Postal Accountability and Enhancement Act of 2006. This notice informs the public of the proposed rules, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 1, 2018; *Reply Comments are due:* March 30, 2018.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Procedural History

Pursuant to 39 U.S.C. 3622(d)(3), 10 years after the enactment of the Postal Accountability and Enhancement Act (PAEA),[1] the Commission was required to initiate a review of the system for regulating rates and classes for market dominant products to determine if the ratemaking system has achieved the objectives of 39 U.S.C. 3622(b), taking into account the factors enumerated in 39 U.S.C. 3622(c).

On December 20, 2016, the Commission initiated its review by issuing an advance notice of proposed rulemaking (ANPR).[2] The ANPR established a framework for the review, appointed an officer of the Commission to represent the interests of the general public, and provided an opportunity for public comment.

On December 1, 2017, the Commission issued its findings concerning the review.[3] The findings are based on the Commission's review of the system's performance during the 10 years following the passage of the PAEA with full consideration of comments received on topics relevant to the review. In short, based on its review of whether the existing ratemaking system has achieved the objectives of 39 U.S.C. 3622(b), taking into account the factors enumerated in 39 U.S.C. 3622(c), the Commission finds the system has not achieved the objectives of the PAEA. Order No. 4257 at 275.

Since the review concludes that the system for regulating rates and classes has not achieved the objectives, taking into account the factors, the Commission is initiating the instant rulemaking. The purpose of this rulemaking is to propose such modifications to existing regulations or adopt such an alternative system through new regulations that the Commission deems necessary to achieve the objectives of 39 U.S.C. 3622(b).

As explained more fully below, 39 U.S.C. 3622(d)(3) authorizes this rulemaking for the purpose of modifying existing regulations or adopting an alternative system as necessary to meet the objectives. The Commission also has standing authority to revise the existing system for regulating rates and classes as necessary. 39 U.S.C. 3622(a). Additionally, the Commission has general authority to promulgate rules and regulations, establish procedures, and take any other action deemed necessary and proper to carry out its functions and obligations, as prescribed under title 39 of the United States Code. 39 U.S.C. 503.

This rulemaking proposes changes to title 39 of the Code of Federal Regulations. The rules in 39 CFR part 3010, subparts A, B, C, and E (existing §§ 3010.1 *et seq.,* 3010.10 *et seq.,* 3010.20 *et seq.,* and 3010.60 *et seq.*) are replaced in their entirety by new rules in new subparts A, B, C, D, E, F, G, H, and I (proposed §§ 3010.100 *et seq.,* 3010.120 *et seq.,* 3010.140 *et seq.,* 3010.160 *et seq.,* 3010.180 *et seq.,* 3010.200 *et seq.,* 3010.220 *et seq.,* 3010.240 *et seq.,* and 3010.260 *et seq.*). Rules specific to negotiated service agreements (NSAs) appearing in 39 CFR part 3010, subpart D (existing § 3010.40 *et seq.)* are moved to new 39 CFR part 3020, subpart G (proposed § 3020.120 *et seq.*). Minor changes are proposed in existing §§ 3050.20(c) and 3055.2(c). The proposed rules appear after the signature of this Order in Attachment A.

The next step in this rulemaking process is critical to the Commission's responsibility under the PAEA—seeking informed community participation and insight. The Commission has implemented a robust comment and reply period designed to elicit sound criticism of, concurrence with, or alternatives to the Commission's proposed approach.

II. Statutory Authority

A. Introduction

Section 3622(d)(3) of title 39 of the United States Code directs the Commission to conduct a review of the market dominant ratemaking system 10 years after the enactment of the PAEA in order to determine whether the system is achieving the objectives enumerated at 39 U.S.C. 3622(b), taking into account the factors enumerated at 39 U.S.C. 3622(c). This provision prescribes a two-step process. First, the Commission must determine whether the current ratemaking system is achieving the PAEA's objectives, taking into account its factors.

[The text of 39 U.S.C. 3622(d)(3) was removed to comply with the **Federal Register** Document Drafting Handbook, section 2.6. *See* 39 U.S.C. 3622(d)(3).].

The Commission completed the first step of this process on December 1, 2017, when it issued an order announcing its findings with regard to the current ratemaking system. *See* Order No. 4257. The Commission specifically determined that the ratemaking system has not achieved the objectives, taking into account the factors. *Id.* at 275.

The Commission now proceeds to the second step of the process established by section 3622(d)(3). This provision authorizes the Commission to promulgate rules either modifying the current ratemaking system or adopting an alternative ratemaking system, ''as necessary to achieve the objectives.''

[The text of 39 U.S.C. 3622(d)(3) was removed to comply with the **Federal Register** Document Drafting Handbook, section 2.6. *See* 39 U.S.C. 3622(d)(3).].

The Commission interprets this provision as providing broad authority to make changes to the market dominant ratemaking system. The authority to make changes to the system provided by

[1] Postal Accountability and Enhancement Act (PAEA), Public Law 109–435, 120 Stat. 3198 (2006).

[2] Advance Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products, December 20, 2016 (Order No. 3673); *see also* 81 FR 95071 (December 27, 2016) (to be codified at 39 CFR parts 3010 and 3020).

[3] Order on the Findings and Determination of the 39 U.S.C. 3622 Review, December 1, 2017 (Order No. 4257).

section 3622(d)(3) expands upon the statutory authority provided by section 3622(a).

[The text of 39 U.S.C. 3622(a) was removed to comply with the **Federal Register** Document Drafting Handbook, section 2.6. *See* 39 U.S.C. 3622(a).].

Finally, the Commission has general authority, pursuant to section 503, to promulgate rules and regulations and establish procedures.

[The text of 39 U.S.C. 503 was removed to comply with the **Federal Register** Document Drafting Handbook, section 2.6. *See* 39 U.S.C. 503.].

B. Comments

The comments received in response to the ANPR that discuss the Commission's rulemaking authority primarily focus on two aspects of that authority pursuant to section 3622(d)(3): The authority to eliminate or modify the price cap and the authority to modify workshare discount provisions. The Appendix to this Order provides a list of commenters and citations to the comments filed in this docket in response to Order No. 3673.

1. Authority To Eliminate or Modify the Price Cap

a. Plain Language

With regard to the price cap, multiple commenters take the position that the plain language of 39 U.S.C. 3622 constrains the Commission's ability to eliminate, modify, or replace the price cap. ANM *et al.* contend that the mandatory ''shall'' language used by Congress in establishing the consumer price index (CPI) price cap and its central role in the PAEA ratemaking scheme forecloses any claim that the statute makes the price cap merely optional.[4]

Commenters also advance a number of structural arguments for why section 3622 precludes any changes to the price cap. ANM *et al.,* MMA *et al.,* and GCA all assert that the scope of section 3622(d)(3) is limited by the title of section 3622(d)—''Requirements.''[5]

ABA focuses on the use of the word ''system'' throughout section 3622, arguing that ''the consistent use of the word 'system' throughout the section, rather than qualifiers such as 'first system' or 'initial system' or 'system preceding the 10 year review,' suggests Congress contemplated the same requirements applying to any and all rate structures the Commission would create.'' ABA Comments at 8–10. GCA focuses on the use of the phrase ''requirement,'' arguing that ''[w]hen a particular phrase is used repeatedly in the same enactment, it is customary to give it the same meaning each time it appears . . . [which] suggests that . . . if a feature of the existing system is present because [section] 3622(d) makes it a 'requirement,' then it must remain in any modified or alternative system which emerges from the tenth-year review.''[6]

Other commenters focus on the purported primacy of quantitative pricing standards over other provisions of the PAEA. ANM *et al.* and MMA *et al.* assert that three quantitative pricing standards rest at the top of the hierarchy of PAEA provisions—the CPI–U based price cap imposed by section 3622(d)(1)(A) and (d)(2); the workshare discount provisions imposed by section 3622(e); and the constraints on rate relationships between regular and preferred mail imposed by section 3626—and that the objectives and factors enumerated in section 3622(b) and (c) are subordinate to these quantitative pricing standards.[7]

MMA *et al.* posit that because Congress created the objectives and factors at the same time as the price cap, it must be concluded that only a system utilizing the price cap can achieve the objectives and factors. MMA *et al.* Comments at 15–16. Similarly, GCA asserts that both section 3622(a) and section 3622(d)(3) are supposed to effectuate the objectives and factors, so Congress must have concluded that the price cap was necessary to effectuate the objectives and factors. GCA Comments at 30–31. ANM *et al.* assert that under general canons of statutory construction, specific provisions, such as the price cap provision at section 3622(d)(1)(A), trump general provisions, such as section 3622(d)(3).[8]

Finally, these commenters highlight prior instances where the Commission is alleged to have ratified this view. ABA cites a prior order by the Commission where the Commission observed that ''the role of the price cap is central to ratemaking, and the integrity of the price cap is indispensable if the incentive to reduce costs is to remain effective.''[9] ANM *et al.* also point to language from a prior Commission order purportedly recognizing that the PAEA's objectives and factors are subordinate to the statute's quantitative pricing standards.[10] Additionally, ANM *et al.* assert that the Commission is bound in the instant proceeding by prior holdings in its FY 2010 and FY 2011 Annual Compliance Determinations (ACDs) that the price cap takes precedence over the statutory factors.[11]

ABA, ANM *et al.,* and MMA *et al.* all take the position that the Commission's authority to review the ratemaking system and engage in rulemaking under section 3622(d)(3) is limited to the scope of the Commission's initial rulemaking authority under section 3622(a).[12] ANM *et al.* assert that section 3622(d)(3) mirrors section 3622(a), and as a result the Commission's authority to modify or replace regulations under section 3622(d)(3) is coextensive with the Commission's authority to establish those regulations in the first instance under section 3622(a). ANM *et al.* Comments at 10–11. Hence, according to ANM *et al.,* nothing in the language or structure of the PAEA suggests that the Commission's rulemaking authority under section 3622(d)(3) is broader than it was under section 3622(a). *Id.*

Based on this interpretation, MMA *et al.* assert that the Commission can modify regulations implementing the price cap but cannot change the fundamental requirements of the ratemaking system. MMA *et al.* Comments at 15. In MMA *et al.*'s view, ''[a]s an administrative agency, the Commission already has inherent authority to revise regulations that it has previously promulgated . . . [and section 3622(d)(3)] merely directs the Commission to use its normal administrative powers.'' *Id.* at 14. GCA suggests that while the Commission cannot abolish the price cap, it can

[4] ANM *et al.* Comments at 9–10 n.2 (asserting that the Commission lacks authority to substantially modify the price cap) (citing ANM *et al.,* Limitations on the Commission's Authority Under Section 3622(d)(3), October 28, 2014, at 6 (ANM *et al.* 2014 White Paper)).

[5] ANM *et al.* 2014 White Paper at 4–7; MMA *et al.* Comments at 14–15; GCA Comments at 29–31.

[6] GCA Comments at 30 (citing *Ratzlaf* v. *United States,* 510 U.S. 135, 143 (1994)).

[7] ANM *et al.* 2014 White Paper at 12; MMA *et al.* Comments at 15–16.

[8] ANM *et al.* 2014 White Paper at 15 (citing *Navarro-Miranda* v. *Ashcroft,* 330 F.3d 672, 676 (5th Cir. 2003)).

[9] ABA Comments at 8 (citing Docket No. R2010–4, Order No. 547, Order Denying Request for Exigent Rate Adjustments, September 30, 2010, at 49–50).

[10] ANM *et al.* 2014 White Paper at 13 (citing Docket No. RM2009–3, Order Adopting Analytical Principles Regarding Workshare Discount Methodology, September 14, 2010, at 36 (Order No. 536)); *see also* MMA *et al.* Comments at 15–16 (citing Docket No. ACR2010, Annual Compliance Determination, March 29, 2011, at 19 (FY 2010 ACD)).

[11] ANM *et al.* 2014 White Paper at 14–15 (quoting FY 2010 ACD at 18–19; Docket No. ACR2010R, Order No. 1427, Order on Remand, August 9, 2012; Docket No. ACR2011, Annual Compliance Determination, March 28, 2012, at 17 (FY 2011 ACD)). The specific factor at issue was Factor 2 (39 U.S.C. 3622(c)(2)), which requires coverage of attributable costs.

[12] ABA Comments at 9; ANM *et al.* 2014 White Paper at 9–11; MMA *et al.* Comments at 14.

''identify and specify features of the . . . price cap which do not adequately effectuate the objectives and factors, point out and analyze the particular shortcomings, identify the objective(s) or factor(s) they are hindering, and find ways to correct them in detail without hindering any other objective.'' GCA Comments at 31–32.

Other commenters assert that the plain language of section 3622 permits the Commission to modify or replace the price cap.[13] The Postal Service takes the position that the ''system'' for purposes of section 3622 includes all provisions within section 3622(d), including the price cap provision. Postal Service Comments at 19. The Postal Service asserts that ''[s]ection 3622(d) plainly states at the outset that its provisions are part of the 'system for regulating rates and classes for market-dominant products.' '' *Id.* Furthermore, the Postal Service asserts that ''whatever the precise scope of 'modification' might be, the fact that the Commission is also authorized to adopt an 'alternative system' demonstrates that [s]ection 3622(d)(3) imposes no limitations on the Commission's authority regarding the design of a replacement regulatory system, other than the requirement that any such replacement achieve the objectives.'' *Id.* at 19–20.

b. Legislative History

Multiple commenters also base their arguments with regard to the price cap on the PAEA's legislative history. ANM *et al.* and GCA note that an early version of the PAEA had referred to the price cap as an ''allowable provision,'' but that by the time the final bill was enacted it had become a ''requirement.'' [14] ANM *et al.* assert that nothing in the PAEA's legislative history suggests that Congress intended for the Commission to have broader rulemaking authority under section 3622(d)(3) than it had under section 3622(a). ANM *et al.* Comments at 11–12. ANM *et al.* and MMA *et al.* contend that elimination or relaxation of the price cap would be contrary to the spirit of the PAEA.[15]

On the other hand, the Postal Service, NALC, and APWU all cite to a floor statement by Senator Susan Collins to the effect that the PAEA would provide 10 years of rate stability, after which the Commission would review the ratemaking system and, if necessary, modify it or adopt an alternative system.[16] The Postal Service asserts that the House version of what became the PAEA would have permitted the Commission to choose a regulatory system, while the Senate version contained a permanent price cap; hence, the final version of the PAEA was a compromise that contained elements of both. Postal Service Comments at 20–21. The Postal Service maintains that it is clear that Congress intended for the Commission to review the ratemaking system in order to determine if it was actually achieving the objectives and factors specified by Congress and, if not, to design a system which would achieve the objectives. *Id.* at 22–23. The Postal Service maintains that the purpose of section 3622(d)(3) was to give the Commission authority to respond to changed circumstances subsequent to the PAEA's enactment. *Id.* at 22–24. The Postal Service contends that it is clear from reviewing the legislative history that if Congress had desired to make the price cap irrevocable, it could have done so. *Id.* at 26–27.

c. Constitutional Concerns

Multiple commenters take the position that interpreting section 3622(d)(3) broadly would produce unconstitutional results. ANM *et al.* and MMA *et al.* assert that a broad interpretation of section 3622(d)(3) would violate the Presentment Clause of the Constitution, which prohibits a bill from becoming law without first passing both houses of Congress and then being ''presented'' to the President.[17] ANM *et al.* also assert that a broad interpretation of section 3622(d)(3) would violate the non-delegation doctrine, under which Congress may not delegate legislative power to an administrative agency where such delegation contains no standards to guide the agency's discretion.[18] MMA *et al.* echo this argument, asserting that the PAEA's objectives and factors do not provide an intelligible principle to guide the Commission's discretion which would be sufficient to permit such a delegation. MMA *et al.* Comments at 15–16.

MMA *et al.* assert that a broad interpretation of section 3622(d)(3) could potentially violate constitutional principles of separation of powers, based on the phrase ''and as appropriate thereafter'' in section 3622(d)(3). *Id.* at 16–17. MMA *et al.* maintain that ''[i]f [the Commission] could change the fundamental nature of the system . . . anytime 'appropriate thereafter,' then it would have received an unprecedented grant to an Executive Branch agency of perpetual power to rewrite legislation.'' *Id.* at 16.

Based on all of the foregoing, ANM *et al.* contend that a broad interpretation of section 3622(d)(3) would violate the canon of constitutional doubt, which prohibits agencies from construing statutes in such a way as to raise serious doubts about their constitutionality.[19] This is because, in ANM *et al.*'s view, ''[t]here is a serious doubt that construing [s]ection 3622(d)(3) to authorize the Commission to rescind the CPI cap would pass muster under the Presentment Clause of the Constitution . . . or the constitutional limits on the delegation of legislative authority.'' ANM *et al.* 2014 White Paper at 18.

The Postal Service, on the other hand, disagrees that a broad interpretation of Commission authority would present a concern with regard to constitutional separation of powers principles. Postal Service Comments at 25. The Postal Service deems section 3622(d)(3)'s delegation of authority to the Commission to be ''unremarkable.'' *Id.*

2. Authority To Modify Workshare Discount Provisions

The second major topic addressed is the workshare discount provisions contained in 39 U.S.C. 3622(e). Most commenters addressing workshare discounts presume worksharing is within the scope of this proceeding and suggest worksharing related changes.[20] In contrast, a handful of commenters object to the review of the workshare discount provisions of section 3622(e).[21] The Postal Service contends that the ''system'' of ratemaking subject to review and possible rulemaking under section 3622(d)(3) does not include the workshare discount provisions. Postal Service Comments at 19, 28. The Postal Service bases this argument, first, on the PAEA's plain language. The Postal

[13] PR Comments at 29–30; NALC Comments at 16.

[14] ANM *et al.* 2014 White Paper at 16; GCA Comments at 30–31.

[15] ANM *et al.* 2014 White Paper at 5–7; MMA *et al.* Comments at 16.

[16] Postal Service Comments at 21–22; NALC Comments at 16; APWU Comments at 5–6.

[17] ANM *et al.* 2014 White Paper at 18 (citing *Clinton* v. *City of New York,* 524 U.S. 417 (1998)); MMA *et al.* Comments at 15.

[18] ANM *et al.* 2014 White Paper at 20 (citing *Mistretta* v. *United States,* 488 U.S. 361, 371–79 (1989); *Panama Ref. Co.* v. *Ryan,* 293 U.S. 388, 430 (1935); *A.L.A. Schechter Poultry Corp.* v. *United States,* 295 U.S. 495, 529–31 (1935)).

[19] ANM *et al.* 2014 White Paper at 17 (citing *United States* v. *Delaware & Hudson Co.,* 213 U.S. 366, 408 (1909); *Lowe* v. *SEC,* 472 U.S. 181, 227 (1985); *Edward J. DeBartolo Corp.* v. *Fla. Gulf Coast Bldg. & Constr. Trades Council,* 485 U.S. 568, 575 (1988)).

[20] *See, e.g.,* ABA Comments at 11; ANM *et al.* Comments at 11–12, 82; Chairman Chaffetz and Chairman Meadows Comments at 2; MMA *et al.* Comments at 19, 71; Pitney Bowes Comments at 3–4; and PSA Comments at 6.

[21] *See, e.g.,* APWU Comments at 5; Postal Service Comments at 28–30; and GCA Comments at 36–37.

Service asserts that ''[s]ubsections (a) through (d) of [s]ection 3622 expressly set forth the parameters of the 'system' . . . [and] [a]t the end of these provisions comes [s]ection 3622(d)(3), with its provision for the Commission's 10-year review of the 'system'. . . .'' Postal Service Comments at 28–29. However, it states that ''[t]he workshare discount standards in subsection (e) follow[ ] the 10-year review provision . . . [and] subsection (e) does not specify that its standards are an aspect of the 'system.' '' *Id.* at 29. APWU similarly contends that the structure of the PAEA suggests Congress did not intend for workshare discount provisions to be subject to modification under section 3622(d)(3). APWU Comments at 5. GCA also takes the position that workshare provisions are not part of the ''system'' which section 3622(d)(3) authorizes the Commission to modify. GCA Comments at 37–38.

The Postal Service also asserts that the PAEA's legislative history demonstrates that Congress intended the requirement that workshare discounts not exceed avoided costs to apply regardless of the regulatory system promulgated by the Commission under section 3622(a). Postal Service Comments at 30–31. GCA likewise asserts that when enacting the PAEA, Congress codified the Commission's long-standing practice on workshare discounts into a set of statutory requirements, which GCA contends the Commission lacks authority to change. GCA Comments at 34.

Finally, the Postal Service and GCA assert that the Commission has previously affirmed the view that the workshare discount standards are separate and distinct from other provisions of section 3622, including the objectives and factors that underlie the review mandated by section 3622(d)(3).[22]

C. Commission Analysis

The Commission's determination that the system has not achieved the objectives, taking into account the factors, triggered the applicability of the second step of the system review contemplated by section 3622(d)(3). *See* Order No. 4257 at 275. This provision grants the Commission discretion regarding whether and how to promulgate regulations as necessary to achieve the PAEA's objectives. 39 U.S.C. 3622(d)(3).

Section 3622(d)(3) provides the Commission with two discrete options. The Commission ''*may,* by regulation, make such modification *or* adopt such alternative system. . . .'' 39 U.S.C. 3622(d)(3) (emphasis added). The use of ''may,'' rather than ''shall,'' demonstrates that Congress intended for the Commission to have discretion to decide whether to act at all.[23] Because ''or'' is disjunctive, the two options on either side of the ''or'' must have a different meaning from each other.[24] Therefore, the use of ''may,'' followed by two options connected by ''or,'' demonstrates that if the Commission does determine to act, then Congress granted the Commission the discretion to choose from two options with different meanings.

The first option is to ''make such modification . . . as necessary to achieve the objectives.'' 39 U.S.C. 3622(d)(3). This language connotes moderate change.[25] The second option grants authority to ''adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.'' 39 U.S.C. 3622(d)(3). This language contemplates replacement of the existing system.[26]

The scope of the term ''alternative system'' is given meaning by the statutory context in which the provision arises. For instance, section 3622(c)(4) limits the scope of ''alternative means of sending and receiving letters and other mail matter at reasonable costs'' to alternative means that are ''available.'' 39 U.S.C. 3622(c)(4). By contrast, the only limit section 3622(d)(3) imposes on the Commission's ability to adopt an alternative system is that it must be ''as necessary to achieve the objectives.'' 39 U.S.C. 3622(d)(3). This comparison confirms that the usage of the term ''alternative system'' is intentionally broad. Congress knew how to impose express limits on the scope of ''alternative system'' but chose not to do so with respect to the Commission's authority under section 3622(d)(3).

The plain language of section 3622(d)(3) leaves it to the Commission's discretion to determine what regulatory changes, if any, are logically required to achieve the PAEA's objectives.[27] Subsection (b) of section 3622 provides that the system ''shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others. . . .'' 39 U.S.C. 3622(b). If Congress intended to further limit the scope of the section 3622 review or any related regulatory changes, it could have prescribed it. Instead, the PAEA set forth nine objectives to be balanced by the Commission.

Although some commenters focus on the title of section 3622(d)—''Requirements''—as precluding changes to the existing price cap, the plain meaning of the statute confirms that section 3622(d)(3) confers broad authority. The ''Requirements'' title alone is not dispositive. A statute's title can aid in resolving ambiguity but has no power to enlarge the text or confer powers.[28]

The argument that the scope of subsection (a) limits the scope of subsection (d)(3) is contrary to the plain meaning and purpose of both subsections. First, the two subsections employ different language. The use of a parenthetical and the conjunction ''and'' in subsection (a) confirms the connection between the meanings of ''establish'' and ''revise'' as referring to the setup and periodic recalibration of the initial ratemaking system.[29] Subsection (a) requires the Commission to set up the initial regulatory system within a specific period. Subsection (a) also permits the Commission to improve or correct that system ''from time to time thereafter'' through normal rulemaking procedures. When doing so, the Commission must apply the objectives in conjunction with each other and take into account the factors. 39 U.S.C. 3622(b) and (c).

By contrast, subsection (d)(3) is not triggered until several separate and specific requirements are met. Subsection (d)(3) requires a review of the ratemaking system to take place 10

[22] Postal Service Comments at 32 (citing Order No. 536 at 16–19, 34–37); *see also* GCA Comments at 36.

[23] *See Lopez* v. *Davis,* 531 U.S. 230, 239 (2001) (if certain statutory prerequisites are met, the Bureau of Prisons '' 'may,' but also may *not,* grant early release.'' (emphasis in original)).

[24] *Chao* v. *Day,* 436 F.3d 234, 236 (D.C. Cir. 2006) (terms connected using the disjunctive ''or'' must be given separate meanings).

[25] *See MCI Telecomm. Corp.* v. *Am. Tel. & Tel. Co.,* 512 U.S. 218, 228 (1994); *see also* Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/modification* (''modification'' defined as ''the making of a limited change in something'').

[26] *See* Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/adopt* (''adopt'' defined as ''to accept formally and put into effect''); *https://www.merriam-webster.com/dictionary/alternative* (''alternative'' defined as ''a proposition or situation offering a choice between two or more things only one of which may be chosen'').

[27] *See* Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/necessary* (''necessary'' defined as ''logically unavoidable'').

[28] *Pa. Dept. of Corr.* v. *Yeskey,* 524 U.S. 206, 212 (1998).

[29] *See* Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/establish* (''establish'' defined as ''to institute (something, such as a law) permanently by enactment or agreement''); *id.,* available at *https://www.merriam-webster.com/dictionary/revise* (''revise'' defined as ''to look over again in order to correct or improve'').

years after the PAEA's enactment, following notice and an opportunity for comment. Additionally, no regulatory changes may be made under subsection (d)(3) unless the Commission first determines that the system has not achieved the objectives, taking into account the factors. The scope of permissible action under subsection (d)(3), which is to ''make such modification *or* adopt such alternative system,'' differs from the authority to ''revise'' the initial system.

The different language used demonstrates that Congress intended to create two separate but complementary processes: The Commission's general authority to set up and periodically recalibrate the initial ratemaking system under subsection (a); and the Commission's specific authority to review the initial system after 10 years and modify or replace any part of the system as necessary to achieve the objectives of the PAEA.

Moreover, the two subsections serve different purposes. Subsection (a) confers ''authority generally'' to the Commission regarding its duty to establish new regulations within a set timeframe and revise them as appropriate. Subsection (a) was necessary to address the pre-PAEA view that the Postal Rate Commission had ''a very important, but expressly limited, role.'' [30] The PAEA transformed the Postal Rate Commission into the Postal Regulatory Commission, a separate independent agency with regulatory oversight of the Postal Service.[31] As discussed below, subsection (d)(3) was the result of a legislative compromise to achieve 10 years of rate stability, followed by a Commission-led review of the ratemaking system and, if warranted, modification or adoption of an alternative system to achieve the PAEA's objectives. Reading section 3622(d)(3) to confer authority to the Commission that is limited to the scope of section 3622(a) would be contrary to this purpose. And, any suggested interpretation of the plain language must give way if it would conflict with Congress' manifest purposes.[32]

The reliance commenters place on Commission precedent is misplaced. None of the cited precedent involved an interpretation of the scope of 39 U.S.C. 3622(d)(3). Because subsection (d)(3) is not even triggered until *after* the 10-year anniversary of the enactment of the PAEA, the cited precedent merely served to acknowledge the bounds of Commission authority during the first 10 years under the PAEA. The cited statements were made in accordance with the Commission's authority to ''establish'' and ''revise'' the initial ratemaking system promulgated under subsection (a). However, subsection (d)(3) confers broader rulemaking authority than subsection (a). In accordance with its authority under section 3622(d)(3), and with the benefit of having conducted an extensive review following 10 years of experience in the operation of the initial ratemaking system, the Commission has now determined that the system has not achieved the PAEA's objectives, taking into account the statutory factors. Order No. 4257 at 275. Therefore, these prior statements made in a separate context do not in any way serve to limit the Commission's broader authority under section 3622(d)(3) to promulgate proposed rules.

With regard to the workshare discount provisions contained within section 3622(e), which a handful of commenters assert are not part of the ratemaking system, the Commission finds that the phrase ''established under this section'' in section 3622(d)(3) refers to section 3622 in its entirety, including the workshare discount provisions in section 3622(e). This conclusion derives from both the plain meaning of the term ''section,'' as well as the fact that within section 3622(d)(3) there is a clear differentiation made between ''sections'' and ''subsections.'' [33] Further, in its review of the system under section 3622(d)(3), the Commission is tasked with taking into account ''the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service . . . .'' 39 U.S.C. 3622(c)(5). Section 3622 defines workshare discounts as the discounts mailers receive for additional preparation of mailpieces, such as presorting, prebarcoding, handling, or transportation. *See* 39 U.S.C. 3622(e)(1). Therefore, workshare discount provisions are plainly part of the ratemaking system subject to review and possible rulemaking.

In sum, the plain meaning of the PAEA grants the Commission broad authority to engage in rulemaking in order to modify or replace the current ratemaking system. The scope of that authority is limited only by what is necessary to achieve the PAEA's objectives.

With regard to legislative history, the PAEA was designed to balance several objectives, including the Postal Service's financial needs and mailers' need for predictable and stable rates. To achieve 10 years of rate stability, the ratemaking system was intended to operate in accordance with specific statutory requirements and limitations. As previously described, after 10 years, the initial system would be subject to Commission review. If the Commission determined that the system did not achieve the PAEA's objectives taking into account its factors, then the Commission would have the authority to modify or replace the system as necessary to achieve the objectives. The legislative history confirms this structured approach. Specifically, the final version of the PAEA, H.R. 6407, represented a compromise between two bills—H.R. 22 and S. 662.

The first bill, H.R. 22, was introduced by Representative John McHugh on January 4, 2005, and reported back to the House with amendments on April 28, 2005. 151 Cong. Rec. H72 (daily ed. Jan. 4, 2005); 151 Cong. Rec. H2734 (daily ed. Apr. 28, 2005). On July 26, 2005, H.R. 22, as amended, was passed by the House of Representatives. 151 Cong. Rec. H6511, H6548–H6549 (daily ed. Jul. 26. 2005) (Roll Call No. 430). As discussed by GCA and ANM *et al.,* [34] under H.R. 22 as passed by the House of Representatives, proposed section 3622(d) was titled ''Allowable Provisions.'' 151 Cong. Rec. H6523 (daily ed. Jul. 26. 2005). This bill provided that the ratemaking system could include one or more of several types of systems: Incentive regulation (*e.g.,* price caps, revenue targets); cost-of-service regulation; or any other form

[30] *Gov. of U.S. Postal Serv.* v. *Postal Rate Comm'n,* 654 F.2d 108, 112 (D.C. Cir. 1981). Under the Postal Reorganization Act, the Postal Rate Commission's responsibilities were limited to ''review of rate, classification, and major service changes, unadorned by the overlay of broad FCC-esque responsibility for industry guidance and of wide discretion in choosing the appropriate manner and means of pursuing its statutory objective.'' *Mail Order Ass'n of Am.* v. *U.S. Postal Serv.,* 2 F.3d. 408, 415 (D.C. Cir. 1993) (quoting *Gov. of U.S. Postal Serv.,* 654 F.2d at 117). ''As a 'partner' of the Board [of Governors of the United States Postal Service] the Postal Rate Commission was assigned the duty and authority to make recommendations with respect to rates and classifications.'' *Gov. of U.S. Postal Serv.,* 654 F.2d at 114.

[31] *U.S. Postal Serv.* v. *Postal Regulatory Comm'n,* 717 F. 3d 209, 210 (D.C. Cir. 2013).

[32] *See Sullivan* v. *Hudson,* 490 U.S. 877, 890 (1989) (''Congress cannot lightly be assumed to have intended'' a result that would ''frustrat[e] . . . the very purposes'' of the statute). No sound approach to statutory interpretation would attribute to Congress an intent to ''subvert the statutory plan.'' *Dep't of Revenue of Or.* v. *ACF Indus. Inc.,* 510 U.S. 332, 340 (1994).

[33] *See* 39 U.S.C. 3622(d)(3) (''[T]he Commission shall review the system for regulating rates and classes for market-dominant products established under *this section* to determine if the system is achieving the objectives in *subsection* (b), taking into account the factors in *subsection* (c).'' (emphasis added)).

[34] ANM *et al.* 2014 White Paper at 16; GCA Comments at 30–31; ANM *et al.* Comments at 21.

of regulation that the Commission considered appropriate to achieve the objectives, consistent with the factors. *Id.* Proposed section 3622(e) under this bill was titled ''Limitation.'' *Id.* This provision would have prohibited the Commission from permitting the average rate for any product to increase at an annual rate greater than the comparable increase in the CPI unless the Commission determined, after public notice and comment, that the increase was reasonable, equitable, and necessary. *Id.*

The second bill, S. 622, was introduced by Senator Collins on March 17, 2005, and reported back to the Senate with amendments on July 14, 2005. 151 Cong. Rec. S2994, S3012–S3031 (daily ed. Mar. 17, 2005); 151 Cong. Rec. S8301 (daily ed. Jul. 14, 2005). On February 9, 2006, the Senate considered those amendments and additional amendments to S. 662 by unanimous consent. 152 Cong. Rec. S898–S927 (daily ed. Feb. 9, 2006). Under this bill, proposed section 3622(d) was titled ''Requirements,'' and was subdivided into subsections titled ''In general'' and ''Limitations.'' *Id.* at S913–S914. The content of proposed section 3622(d)(1) and (2) under S. 662 employed similar language to that which was eventually used in the final version of the PAEA. *Compare id. with* 39 U.S.C. 3622(d)(1) and (2).

Also on February 9, 2006, through unanimous consent, the Senate passed H.R. 22,[35] by replacing the text of H.R. 22 with all the text of S. 662. 152 Cong. Rec. at S927–S942 (daily ed. Feb. 9, 2006). Therefore, as passed by the Senate, H.R. 22 contained the same title structure as S. 662, with proposed section 3622(d)—titled ''Requirements''—being subdivided into two subsections titled ''In General'' and ''Limitations.'' *Id.* at S929. Then, the Senate sent H.R. 22, as amended and passed by the Senate, back to the House and requested a conference to resolve the differences between the two versions. *Id.* at S927, S942. For instance, as passed by the House on July 26, 2005, H.R. 22 provided for the ratemaking system to achieve seven objectives and for the Commission to take into account 11 factors. 151 Cong. Rec. H6523 (daily ed. Jul. 26, 2005). By contrast, as passed by the Senate on February 9, 2006, H.R. 22 provided for the ratemaking system to achieve 8 objectives and for the Commission to take into account 13 factors. 152 Cong. Rec. at S928–S929 (daily ed. Feb. 9, 2006).

None of the versions of the bills described above included the review provision that would eventually be codified at 39 U.S.C. 3622(d)(3). Nor was this provision referenced in hearings, committee reports, or the presidential signing statement. Instead, 39 U.S.C. 3622(d)(3) was included only in the final version of the PAEA introduced on December 7, 2006. H.R. 6407, 109th Cong., at 7 (2006). Pursuant to a compromise between the Senate and the House, H.R. 6407 blended together concepts appearing in the separate versions of the bills described above, including combining the objectives and factors.

There is only one statement in the Congressional Record about the review provision, and it was made upon receipt of the final version of the postal reform bill on December 8, 2006. Senator Collins, the Senate sponsor of postal reform, remarked:

> The Postal Service will have much more flexibility, but the rates will be capped at the CPI. That is an important element of providing 10 years of predictable, affordable rates, which will help every customer of the Postal Service plan. After 10 years, the Postal Regulatory Commission will review the rate cap and, if necessary, and following a notice and comment period, the Commission will be authorized to modify or adopt an alternative system.
>
> While this bill provides for a decade of rate stability, I continue to believe that the preferable approach was the permanent flexible rate cap that was included in the Senate-passed version of this legislation. But, on balance, this bill is simply too important, and that is why we have reached this compromise to allow it to pass. We at least will see a decade of rate stability, and I believe the Postal Rate Commission, at the end of that decade, may well decide that it is best to continue with a CPI rate cap in place. It is also, obviously, possible for Congress to act to reimpose the rate cap after it expires. But this legislation is simply too vital to our economy to pass on a decade of stability. The consequences of no legislation would be disastrous for the Postal Service, its employees, and its customers.

152 Cong. Rec. S11674, S11675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins).

This statement confirms that section 3622(d)(3) was a part of a legislative compromise that required the price cap ''Requirements,'' as contained in the PAEA, to remain in place for 10 years, and then allowed the Commission the opportunity to review the effectiveness of this ratemaking system and potentially design a modified or alternative system.[36] This statement also confirms that the congressional sponsors of the PAEA contemplated that the Commission would have broad discretion after the section 3622 review—including deciding whether to continue the price cap in its current form, modify it, or replace it. That Congress believed it might need to ''reimpose the rate cap after it expires'' clearly evidences its intent that the Commission had the authority, after its review, to eliminate the price cap through the potential modification or adoption of an alternative system. The statement also confirms that Congress did not consider the current price cap to be a permanent or immutable requirement of the system. Senator Collins further stated:

> This *compromise* is not perfect and, indeed, earlier tonight, there were issues raised by the appropriators—legitimate issues—that threatened at one point to derail the bill again. It has been a delicate *compromise* to satisfy all of the competing concerns. Everyone has had to *compromise,* but I think we have come up with a good bill. This *compromise* will help ensure a strong financial future for the U.S. Postal Service and the many sectors of our economy that rely on its services, and it reaffirms our commitment to the principle of universal service that I believe is absolutely vital to this institution.

Id. (emphasis added). Senator Thomas Carper also confirmed that the final bill was ''a difficult compromise.'' 152 Cong. Rec. S11675 (daily ed. Dec. 8, 2006) (statement of Sen. Carper).

Congress passed the PAEA, amending title 39, to ensure the financial viability of the Postal Service.[37] Senator Collins stated that ''[w]ith this landmark reform legislation, we will put the Postal Service on a firm financial footing.'' 152 Cong. Rec. S11674 (daily ed. Dec. 8, 2006) (statement of Sen. Collins). The legislative history confirms that Congress intended to empower the Commission to modify or replace the system following the section 3622 review as necessary to achieve the objectives.

Finally, with regard to the constitutional infirmities alleged by some commenters, the scope of the Commission's authority under section 3622(d)(3) does not raise separation of powers issues because section 3622(d)(3) meaningfully constrains the Commission's authority.

Under the nondelegation doctrine, Congress cannot delegate legislative

[35] H.R. 22 had been pending in the Senate since July 27, 2005. 151 Cong. Rec. S9155, S9156 (daily ed. Jul. 27, 2005).

[36] It is worth noting that Senator Collins introduced the initial bill in the Senate which contained the ''requirement'' language with regard to the price cap. As a result, the statement in the Congressional Record is particularly probative as to the existence of a compromise.

[37] *See Newspaper Ass'n of Am.* v. *Postal Regulatory Comm'n,* 734 F.3d 1208, 1217 (D.C. Cir. 2013) (citing S. Rep. No. 108–318, at 2–4 (2004)).

power to the Executive Branch.[38] However, Congress does not violate the nondelegation doctrine merely because it legislates in broad terms and leaves a certain degree of discretion to an Executive Branch actor, so long as Congress sets forth ''an intelligible principle'' to which the actor must conform.[39] The Supreme Court has routinely upheld delegations to the Executive Branch ''under standards phrased in sweeping terms.'' *See Loving,* 517 U.S. at 771. Congress may permissibly delegate authority to the Executive Branch to regulate in a manner that is necessary to adhere to policy objectives in a statute.[40] In this instance, the statute gave clear direction to the Commission about how to exercise its legal authority to make modifications or adopt an alternative system. Any modifications or the adoption of an alternative system must be necessary for the system to achieve the objectives in 39 U.S.C. 3622(b), and it is with those objectives in mind that the Commission proposes the regulations below.

With regard to the Presentment Clause, the comparison made by some commenters to the Line Item Veto Act which was struck down in *Clinton* v. *City of New York* is inapt. First, the President's exercise of cancellation authority under the Line Item Veto Act, 5 days after legislation's enactment, was ''necessarily [ ] based on the same conditions that Congress evaluated when it passed those statutes.'' *Clinton,* 524 U.S. at 443. By contrast, Congress' delegation to the Commission under section 3622(d)(3) is meaningfully constrained by several separate conditions that must occur after the enactment of the PAEA: The passage of 10 years; a comprehensive review of the ratemaking system by the Commission; notice to the public and an opportunity for comment; and a determination by the Commission that the system is not achieving the PAEA's objectives, taking into account the statutory factors.

Second, whereas the impermissible Line Item Veto Act required the President to make certain determinations before cancelling a provision, those determinations did not qualify his discretion as to whether to cancel or not. *Id.* at 443–44. By contrast, the Commission's discretion under section 3622(d)(3) to either modify the ratemaking system, adopt an alternative system, or do neither is contingent on a determination that the system did not achieve the PAEA's objectives, taking into account the statutory factors. If the Commission determined that the system had achieved the objectives, taking into account the factors, the Commission's authority under section 3622(d)(3) to either modify the system or adopt an alternative system would not have been triggered.

Third, the impermissible Line Item Veto Act allowed the President to override the policy objectives contained in a cancelled statute, which were developed by Congress, with his own policy objectives, which were developed unilaterally. *Id.* at 444. By contrast, section 3622(d)(3)'s delegation of rulemaking authority to the Commission is limited because it is required to effectuate the nine objectives embodied in the PAEA, which were developed by Congress.

Therefore, the Commission's authority to modify or adopt an alternative system under section 3622(d)(3) remains within the permissible bounds of the separation of powers between the Legislative Branch and the Executive Branch.

In conclusion, the Commission has broad authority to either modify or replace the existing market dominant ratemaking system. This authority extends to modification of regulations currently in place and the statutory rate setting requirements of section 3622 (including those applicable to workshare discounts in 39 U.S.C. 3622(e)). The constraint on the Commission's authority is that the system as implemented must be designed to achieve the objectives of section 3622(b).

III. Proposed Regulatory Changes

A. Introduction

In Order No. 4257, the Commission concluded that the system for regulating rates and classes did not achieve the objectives, taking into account the factors. Therefore, the Commission is proposing new regulations that it deems necessary to achieve the objectives of 39 U.S.C. 3622(b). The reasons that certain objectives were not achieved, taking into account the factors, and the proposed solutions to address these issues fall within the following broad areas.

The medium-term financial stability of the Postal Service is addressed in section C—Supplemental Rate Authority. The changes presented in this section provide the Postal Service with an additional 2 percentage points of rate authority per calendar year. This authority is available only for the first 5 full calendar years following the effective date of these regulations.

The long-term financial stability of the Postal Service is addressed in section D—Performance-Based Rate Authority. The changes presented in this section make up to an additional 1 percentage point of rate authority available per calendar year. Of this rate authority, 0.75 percentage points is allocated based on meeting operational efficiency-based rate authority requirements, and 0.25 percentage points is allocated based on meeting service quality-based rate authority requirements.

Issues related to non-compensatory classes and products are addressed in section E—Non-Compensatory Classes and Products. The changes presented in this section impose rate design requirements on non-compensatory products. The changes also provide the Postal Service with an additional 2 percentage points of rate authority per calendar year for non-compensatory classes of mail.

Issues related to inefficient rate design concerning workshare discounts are addressed in section F—Workshare Discounts. The changes presented in this section employ rate design concepts based on efficient component pricing (ECP). The proposed regulations establish bands that set the percentages of avoided costs that may be reflected in the discounts. The proposed regulations include a 3-year grace period.

Miscellaneous issues related to the rate adjustment process are addressed in section G—Enhancements to the Ratemaking Process. The changes presented in this section increase visibility into future planned rate adjustments by proposing changes to the Schedule for Regular and Predictable Rate Adjustments requirements. Changes are also proposed for the rate adjustment process, including a proposal to extend the notification period for planned rate adjustments from 45 to 90 days.

Prior to addressing these broad areas and the related proposed solutions, the Commission first provides background related to the Postal Service's financial stability in section B below. This background material provides context and supports the Commission's proposed solutions described in more detail in sections C and D.

[38] *See, e.g., Loving* v. *United States,* 517 U.S. 748, 758 (1996).

[39] *Id.* at 771–72 (citing *J.W. Hampton, Jr. & Co.* v. *United States,* 276 U.S. 394, 409 (1928); *Touby* v. *United States,* 500 U.S. 160, 165 (1991)).

[40] *See, e.g., Touby* v. *United States,* 500 U.S. at 163, 165 (statute authorizing Attorney General to schedule controlled substance on temporary basis as ''necessary to avoid an imminent hazard to the public safety'' did not violate nondelegation doctrine because it contained an intelligible principle); *National Broadcasting Co.* v. *United States,* 319 U.S. 190, 217, 225–26 (1943) (upholding delegation to the Federal Communications Commission to regulate radio broadcasting according to ''public interest, convenience, or necessity'').

B. The Path to Financial Stability

1. Background

The existing ratemaking system did not achieve the PAEA's objectives during the 10 years following the PAEA's enactment. *See generally* Order No. 4257. The Postal Service is in poor financial health. *Id.* at 274. The market dominant ratemaking system established under 39 U.S.C. 3622 did not assure ''adequate revenues, including retained earnings, to maintain financial stability,'' as required by Objective 5. *Id.* at 178 (quoting 39 U.S.C. 3622(b)(5)). In Order No. 4257, the Commission discussed financial stability using a three-tiered analysis: short-term, medium-term, and long-term. *Id.* at 151–78. Because the three tiers build upon each other, this analysis found that all three tiers must be achieved in order to support a finding that the system maintained financial stability. *Id.* at 159. As set forth in Order No. 4257, although the short-term financial measure was generally achieved, medium-term and long-term financial stability measures were not achieved. *Id.* at 274.

Moreover, although costs were reduced and operational efficiency was increased during the PAEA era, these cost reductions and operational efficiency increases were not maximized, as required by Objective 1. *Id.* at 222, 248; 39 U.S.C. 3622(b)(1). The Commission found that the cost reductions and operational efficiency gains experienced under the existing ratemaking system have been insufficient to contribute to the financial stability of the Postal Service. Order No. 4257 at 222, 248.

Therefore, the Commission considers regulatory proposals aimed to put the Postal Service on the path to financial stability.

2. Comments

Most of the comments received with regard to the Postal Service's financial stability discuss the Postal Service's finances within the context of whether the Commission should keep, modify, or eliminate the current consumer price index for all urban consumers (CPI–U) price cap.

a. Comments in Support of Retaining the Price Cap

Most of the commenters in favor of keeping the CPI–U price cap generally contend that the Postal Service's current revenue is adequate to provide necessary services. ANM *et al.,* for example, assert that the Postal Service's revenue and earnings are improving, that mail volume has stabilized, and that operating income has been positive for several years and is projected to remain so. ANM *et al.* Comments at 3–4, 23–25, 32–33. MMA *et al.,* DMA *et al.,* and LSC contend that the Postal Service's revenue is adequate to meet controllable and operating costs.[41]

ANM *et al.* and MMA *et al.* both note that competitive products are now generating a large share of the Postal Service's revenue, and that expected growth in competitive package services is increasing.[42] ANM *et al.* assert that the Postal Service's liquidity is healthy. ANM *et al.* Comments at 4, 34–35. MMA *et al.* contend that the Postal Service faces no serious risk of insolvency. MMA *et al.* Comments at 31–32.

MMA *et al.* assert that cash flow is the most appropriate measure of the Postal Service's financial stability, and that by this metric, the Postal Service is ''quite stable.'' *Id.* at 37. Furthermore, MMA *et al.* maintain that the Postal Service's finances are well-positioned in the long run, when all of its assets are fairly valuated.[43]

ANM *et al.* and MMA *et al.* both assert that the Postal Service's finances are better than they appear, because the Postal Service significantly undervalues its real estate holdings.[44] ANM *et al.,* MMA *et al.,* and DMA *et al.* all maintain that the Postal Service's pension and benefit funds are well-funded.[45] MMA *et al.,* in particular, dispute many of the metrics used to assess the Postal Service's financial stability. MMA *et al.* Comments at 31–32. They contend that the Postal Service's finances are not comparable to those of a private firm, and that the financial ratios used to measure private firms are not generally applicable to the Postal Service. *Id.* at 32, 41.

Although many of these commenters acknowledge that the Postal Service's net earnings remain negative, they generally attribute this to the PAEA's requirement to prefund the Postal Service Retiree Health Benefits Fund (PSRHBF) and assert that this requirement is not part of the PAEA's ratemaking system.[46] Noting that Congress mandated the PSRHBF prefunding requirement, many of these commenters assert that the problem should be addressed through a legislative fix—not through a price increase.[47]

ANM *et al.* and MMA *et al.* raise concerns regarding whether any additional revenue would be used appropriately by the Postal Service. ANM *et al.* assert that any additional revenue would be ''squandered through laxer control of costs.'' ANM *et al.* Comments at 9. MMA *et al.* contend that the precise nature of the Postal Service's ''needs'' in terms of capital is an issue that requires critical assessment by the Commission. MMA *et al.* Comments at 38–39.

Several commenters state that raising the price cap would undermine rate predictability and stability. ANM *et al.* assert that the price cap provides ''the only effective protection . . . to mailers and consumers . . . against abuse of the Postal Service's market power.'' ANM *et al.* Comments at 8. They maintain that relaxing the price cap would lead to a loss of credibility for the Commission and hamper the ability of Postal Service management to bargain effectively with labor and other interest groups that might seek to raise the Postal Service's costs. *Id.* at 8–9. DMA *et al.* maintain that raising the price cap would be a burden to mailers. DMA *et al.* Comments at 3.

Other commenters, including ANM *et al.,* DMA *et al.,* and GCA, maintain the raising the price cap would undermine operational efficiency.[48] GCA specifically states that any upward adjustment in the price cap would reduce incentives for efficiency and cost reduction. GCA Comments at 21. NNA cautions that lifting the price cap to improve the Postal Service's financial condition could dissuade Congress from providing legislative relief, tempt future legislators to add costs to the system, or make privatization of the Postal Service more attractive. NNA Comments at 32–33.

b. Comments in Support of Modifying the Price Cap

Another group of commenters suggests keeping a price cap system but modifying its form. For instance, the Public Representative contends that the Postal Service's revenue under the price cap must be increased. PR Comments at 33. He proposes modifying the price cap formula to account for changes in demand (*i.e.,* for declining mail

[41] DMA *et al.* Comments at 3; MMA *et al.* Comments at 31; LSC Comments at 3.

[42] ANM *et al.* Comments at 28; MMA *et al.* Comments at 36–37.

[43] *Id.* MMA *et al.* also assert that even if financial stability is measured by controllable income, the Postal Service is doing well. *Id.* at 40.

[44] ANM *et al.* Comments at 5–6, 44; MMA *et al.* Comments at 43.

[45] ANM *et al.* Comments at 4–5, 40–41; MMA *et al.* Comments at 44; DMA *et al.* Comments at 3.

[46] ANM *et al.* Comments at 4, 38; DMA *et al.* Comments at 3; MMA *et al.* Comments at 40–41, 47–48; Netflix Comments at 18; NNA Comments at 31; LSC Comments at 3; ACMA Comments at 5.

[47] DMA *et al.* Comments at 3; LSC Comments at 3; NNA Comments at 4–5.

[48] ANM *et al.* Comments at 9; DMA *et al.* Comments at 3; GCA Comments at 20–21.

volumes) and to reflect the PSRHBF payment obligation. *Id.* at 33, 35–47. MH and NAAD, on the other hand, advocate that the Commission cease using CPI–U as a price index and return to a more cost-based approach to ratemaking. MH and NAAD Comments at 10.

c. Comments in Support of Eliminating the Price Cap

The third group of commenters consists primarily of the Postal Service and the postal unions, who advocate that the Commission should eliminate the price cap altogether. These commenters generally take the position that revenue under the existing ratemaking system is insufficient to enable the Postal Service to maintain financial stability.[49] Some of these commenters assert that current revenue levels are not sufficient to cover costs or allow for investments in infrastructure.[50]

The Postal Service asserts that it has experienced a net loss every year since the PAEA was enacted, primarily due to declining mail volume. Postal Service Comments at 84–86. APWU asserts that when instituting the CPI–U price cap Congress did not foresee the changes and market forces over the past decade, including mail volume declines, an increase in the number of mail delivery points, changes in the mail mix, and an economic recession. APWU Comments at 29. NALC maintains that by depriving the Postal Service of revenue and causing it to reduce the quality and availability of its services, the price cap risks driving away even more customers. NALC Comments at 8.

The Postal Service asserts that it has dangerously low liquidity and lacks the ability to meet all of its financial obligations. Postal Service Comments at 87. It represents that it only has enough cash reserves to sustain it for approximately 29 days. Postal Service Comments at 87. NALC notes that with the Postal Service's borrowing authority exhausted and with no access to capital markets, the only source of liquidity available to the Postal Service has been its meager cash reserves. NALC Comments at 7. It asserts that this state of constrained liquidity renders the Postal Service vulnerable to an economic downturn or crisis. *Id.*

The Postal Service states that constrained liquidity has prevented it from investing adequately in capital expenditures. Postal Service Comments at 88. APWU, NALC, and NPHMU echo this assertion.[51] The Postal Service and NALC contend that the Postal Service's level of capital expenditures is far lower than that of its competitors.[52] NALC asserts that insufficient capital investments could undercut the Postal Service's long-term performance. NALC Comments at 12.

With regard to operational efficiency, the Postal Service maintains that deferral of capital expenditures has become a major drag on the Postal Service's efficiency improvement efforts. Postal Service Comments at 88–90. The Postal Service asserts that despite having made significant efficiency gains and cost cuts, the available remaining efficiency gains and/or cost cuts come nowhere close to enabling the Postal Service to maintain financial stability under the existing price cap. *Id.* at 83–84. NALC concurs with this conclusion, maintaining that the Postal Service has made significant strides in containing and reducing costs but is running out of feasible cost-cutting opportunities. NALC Comments at 6–9.

In addition to eliminating the price cap, APWU and NALC both suggest permitting a one-time true-up rate proceeding to reset the rate base for all classes.[53]

3. Commission Analysis

As the Commission concluded in Order No. 4257, the Postal Service is not financially stable because the current ratemaking system has not assured ''adequate revenues, including retained earnings, to maintain financial stability,'' as required by Objective 5. Order No. 4257 at 178 (quoting 39 U.S.C. 3622(b)(5)). Therefore, the Commission determines that it would be inappropriate to retain the existing ratemaking system unchanged. Doing so would not only be contrary to Objective 5, it would negatively impact the mailing industry as a whole. According to the 2015 Envelope Manufacturing Association's U.S. Mailing Industry Jobs and Revenue Study (EMA Study), in FY 2014, the latest year data are available, the nation's mailing industry employed 7.5 million workers and generated $1.4 trillion in revenues. February 24, 2017 EMA Comments at 2. The EMA study states:

> [A]lmost 85 percent of mailing industry jobs depend[] upon the delivery sector, of which the USPS is the center.
>
> However, if one analyzes further between the public and private sector components of the delivery network (*i.e.* separating the USPS from its private sector competitors), the dependence of the US economy on the USPS becomes even clearer. Some 6.9 million private sector jobs depend on the 617,000 jobs of the USPS. This distribution of jobs impact clearly shows (as would a similar comparison of revenues) that the Postal Service's importance to the economy is substantially greater than one might assume if the Postal Service were examined in isolation.

Id. at 6.

At the other extreme, however, the Commission determines that it would be inappropriate to design a system that lacks a mechanism to limit the magnitude of price adjustments. Such a mechanism is necessary to create predictability and stability, as required by Objective 2. Order No. 4257 at 103; 39 U.S.C. 3622(b)(2).

The Commission finds, as discussed further below, that additional pricing authority is necessary to achieve the objectives of the PAEA. The Commission seeks to complement, rather than replace, the CPI–U price cap by providing discrete, clearly-defined amounts of additional rate authority. This additional rate adjustment authority is designed to put the Postal Service on the path toward generating positive net income and retained earnings. Accordingly, the Commission aims to design a ratemaking system that will put the Postal Service on the path to financial stability required by Objective 5 in a way that is consistent with the other objectives, such as Objectives 1 and 3, of the PAEA. Below the Commission describes its methodology to determine the amount and mechanism to provide that additional rate adjustment authority.

a. The Commission's Methodology

In order to estimate the appropriate amount of revenue to put the Postal Service on the path to financial stability, the Commission relies upon its three-tiered analysis detailed in Order No. 4257 as its starting point.

The Postal Service has been able to operate continuously without service interruption, consistent with the Commission's analysis demonstrating that the Postal Service has met the threshold of short-term financial stability. Order No. 4257 at 165. Beyond the short-term, however, the Postal Service's financial health is in jeopardy. *See generally id.* at 165–78. The medium-term financial stability analysis details that the Postal Service

[49] *See, e.g.,* Postal Service Comments at 82–83; APWU Comments at 29; NALC Comments at 4–6; NPMHU Comments at 3.

[50] NALC Comments at 4–6, 7; APWU Comments at 23–24.

[51] APWU Comments at 23–24; NALC Comments at 9; NPHMU Comments at 3; *see also* MH and NAAD Comments at 7–8.

[52] Postal Service Comments at 88–89; NALC Comments at 10.

[53] APWU Comments at 30; NALC Comments at 17.

experienced a net loss in every year during the PAEA era because total revenue generated was inadequate to cover total costs. *Id.* at 168. The long-term financial stability analysis shows that the Postal Service did not attain retained earnings during the PAEA era. *Id.* at 171. Additionally, during the PAEA era the Postal Service exhausted its borrowing authority and reduced its capital investments. *See id.* at 169–77.

Consistent with its financial stability analysis in Order No. 4257, the Commission derives reference points for how much additional revenue would be needed to put the Postal Service on the path to medium-term financial stability and for how much additional revenue would be needed to put the Postal Service on the path to long-term financial stability. In line with this two-pronged methodology, there are two components of additional rate authority: The first to address medium-term financial stability and the second to address long-term financial stability.

Although the financial stability discussion in this Order generally parallels Order No. 4257's division into the medium-term and long-term tiers, the medium-term and long-term financial stability concepts are interrelated. As detailed in section III.D.1, *infra,* the path to financial stability is cyclical. Adequate revenues build up net income (which demonstrates medium-term financial stability) and over time should lead to retained earnings (which demonstrate long-term financial stability). Retained earnings may be used to fund capital investment, which should lead to operational efficiency gains and help maintain high quality service standards. Operational efficiency gains and maintenance of high quality service standards should in turn lead to increased revenues and reduced costs, which should build up net income. Because the Postal Service's financial health is poor, it is necessary to try to make progress on multiple aspects of this cycle simultaneously.

Although the cycle above is centered around medium- and long-term financial stability (Objective 5), the cycle also affects several other objectives. In particular, the cycle also includes the goals underlying Objective 1 (maximize incentives to reduce costs and increase operational efficiency) and Objective 3 (maintain high quality service standards). In Order No. 4257, the Commission found that the system did not achieve the goals of the PAEA related to each of these objectives. *See* Order No. 4257 at 274–75. The Commission's proposed solution is structured to not only put the Postal Service on the path to medium- and long-term financial stability, but also to address Objective 1's requirement that the system maximize incentives to increase operational efficiency and Objective 3's requirement that the high quality service standards are maintained.

Several commenters express concerns regarding the appropriate use of additional revenue by the Postal Service and the effects of any revenue increases on the Postal Service's incentives to cut costs and increase operational efficiency.[54] In order to ensure appropriate incentives, it is necessary to make the long-term additional rate authority contingent on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria.

The Commission expects that its proposal will incentivize the Postal Service to take necessary steps to reduce costs. As discussed in more detail in the remainder of this section, the Postal Service will need to realize cost reductions in order for the system to achieve financial stability. The Commission also expects its proposed solution to support continued cost reduction. As demonstrated by the cycle discussed above and in more detail in section III.D.1, *infra,* improvements in medium- and long-term financial stability and increased operational efficiency should lead to cost reductions when the cycle is functioning normally.

The Commission intends to review the proposed regulatory changes to the market dominant ratemaking system after the supplemental rate authority expires as explained in more detail below. This time period is consistent with the recommendations for another review in the near-term made by the Public Representative (suggesting to review in 4 years)[55] and the Postal Service (suggesting to review in 5 years).[56] It is critical under a price cap regime to be able to revisit a plan's performance quickly enough to prevent either persistent windfalls to the firm that harm consumers or persistent revenue shortfalls that damage the producer. *See* Kwoka Declaration at 11–12. At the same time, however, reviewing the system too frequently can undermine the incentives towards efficiency that the price cap was intended to foster. *See id.* at 8. The Commission determines that reviewing the system after the supplemental rate authority expires is reasonable and appropriate. The Commission discusses the expiration of the supplemental rate authority in more detail in section III.C.3, *infra.*

b. The Commission's Proposed Approach

Based on the methodology described above, the Commission proposes a two-pronged solution designed to place the Postal Service on the path to financial stability by providing rate adjustment authority in addition to the CPI–U rate authority. The Commission proposes to make available both: (1) Supplemental rate authority to put the Postal Service on the path to medium-term financial stability and (2) performance-based rate authority (contingent on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria) to put the Postal Service on the path to long-term financial stability. The reminder of this section summarizes the purpose, amount, and mechanization of each type of rate authority. The Commission provides more detailed explanations of the supplemental rate authority and performance-based rate authority, *infra,* in sections III.C and III.D, respectively.

First, the proposed supplemental rate authority aims to put the Postal Service on the path to medium-term financial stability by providing the Postal Service the opportunity to generate additional revenue to cover its obligations. In determining the amount of supplemental rate authority, the Commission uses the $2.7 billion FY 2017 net loss as its reference point.[57] Providing a discrete amount of supplemental rate authority on a steady and regular annual basis for 5 years should put the Postal Service on the path to medium-term financial stability while also taking into account pricing predictability and stability. Therefore, the Commission provides for 2 percentage points of rate authority per class of mail per calendar year for each of the first 5 full calendar years following the effective date of these proposed rules. This proposed supplemental rate authority is necessary to achieve Objective 5. The detailed justifications relating to the purpose, amount, and mechanism to allocate the proposed supplemental rate authority are addressed in section III.C, *infra.*

Second, the proposed performance-based rate authority aims to put the Postal Service on the path to long-term

[54] *See, e.g.,* ANM *et al.* Comments at 9; DMA *et al.* Comments at 3; GCA Comments at 20–21.

[55] PR Comments at 60–61.

[56] Postal Service Comments at 219 n.430.

[57] United States Postal Service, 2017 Report on Form 10–K, November 14, 2017, at 16 (Postal Service FY 2017 Form 10–K).

financial stability by providing the Postal Service the opportunity to generate retained earnings. These earnings would fund adequate levels of capital investment. In determining the amount of performance-based rate authority, the Commission uses several reference points related to capital investment, capital assets, and borrowing authority. Making the availability of this performance-based rate authority contingent on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria should put the Postal Service on the path to long-term financial stability while also providing for accountability. Therefore, the Commission provides for up to 1 percentage point of rate authority per class of mail per calendar year, contingent on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria. This proposed performance-based rate authority is necessary to achieve Objectives 1, 3, and 5. The detailed justifications relating to the purpose, amount, and mechanism to allocate the proposed performance-based rate authority are addressed in section III.D, *infra.*

C. Supplemental Rate Authority

1. Background

In the three-tiered financial stability analysis used in Order No. 4257, the Commission determined that although short-term stability was achieved under the PAEA, medium- and long-term stability were not. This section discusses the medium-term tier of the financial stability test. To be deemed financially stable in the medium-term, the Postal Service's total revenue should cover total cost (both attributable and institutional). Order No. 4257 at 165. The Commission measured this by analyzing net income, which consists of (total revenue − [attributable costs + institutional costs]). *Id.* The Commission found that the Postal Service experienced a net loss in every year of the PAEA era, as total revenue generated was inadequate to cover total costs. *Id.* at 168. As a result, the Commission determined that the Postal Service did not achieve medium-term financial stability. *Id.* This was compounded because the existing ratemaking system did not achieve cost reductions and operational efficiency gains sufficient to contribute to the financial stability of the Postal Service. *See id.* at 274.

Therefore, the Commission aims to design a ratemaking system that will put the Postal Service on the path to generating positive net income. The Commission uses Order No. 4257's medium-term stability framework for its analysis, but utilizes the FY 2017 net loss as a starting point for its calculation to put the Postal Service on the path towards medium-term financial stability. In the remainder of this section, the Commission discusses how it estimates the amount of the proposed supplemental rate authority necessary to address this net loss. The Commission then discusses how it proposes to allocate this proposed supplemental rate authority in a manner that balances the PAEA's objectives.

2. Amount of Supplemental Rate Authority

To estimate the amount of additional revenue that would be needed in order to put the Postal Service on the path to medium-term financial stability, the Commission uses as its starting point the FY 2017 net loss.

During the first 10 years under the PAEA, the Postal Service's net loss ranged from $2.8 billion to $15.9 billion. Order No. 4257 at 168, Table II–10. The net losses experienced over this period show that the rate adjustment authority under the existing market dominant ratemaking system was insufficient. The Commission determines that an adjustment to the system is necessary to provide the Postal Service with tools to address its ongoing net income shortfall.

Based on the FY 2017 net loss of $2.7 billion, the Postal Service would need additional revenue of $2.7 billion to achieve medium-term stability (*i.e.,* to have total revenue equal to all attributable and institutional costs).[58] This represents 5.7 percent of FY 2017 market dominant revenue. While the Commission relies on the FY 2017 net loss as a reference point, it also looks to additional considerations in determining the amount of proposed supplemental rate authority. The Postal Service's future financial position will be affected by a multitude of influences such as changes in inflation, the cost of inputs, changes in operational efficiency, secular volume trends, and mailers' responses to price changes. As a result, it is not possible to precisely calculate the exact amount of additional pricing authority that will achieve medium-term stability in future years. Such precision is not necessary to effectuate the Commission's proposal because the proposed supplemental rate authority is not designed to provide sufficient revenue to cover costs in the same way as the revenue requirement of the Postal Reorganization Act's break-even regime. Instead, the proposed supplemental rate authority is designed to provide the opportunity to generate additional revenue that is sufficient, when combined with cost reductions and operational efficiency gains, to improve the financial stability of the Postal Service.

3. Phase-in Mechanism

a. Proposed Commission Solution

Taking this $2.7-billion revenue increase developed using the FY 2017 net loss as its reference point, the Commission has considered how to authorize the proposed supplemental rate authority in a manner that will put the Postal Service on the path to generating sufficient revenue to meet its medium-term obligations balancing all of the PAEA's objectives. The Commission has given weight to the commenters' concerns regarding the timing and magnitude of rate increases. Based on these concerns and the analysis in Order No. 4257, the Commission proposes to design the ratemaking system to allow for this proposed supplemental rate authority on an annual basis over a finite period.

Given the magnitude of the FY 2017 loss, the Commission finds that the most appropriate means of putting the Postal Service on a path to medium-term financial stability is to provide 2 percentage points of supplemental rate authority each year for a 5-year period, after which it ends. As discussed in section III.B.3, *supra,* the Commission determines that 5 years is a reasonable and appropriate time period to allow the Postal Service the opportunity to achieve medium-term financial stability, after which time the Commission will review the Postal Service's financial performance.

Specifically, the Commission proposes to make available to the Postal Service 2 percentage points of supplemental rate authority per class of mail per calendar year for each of the first 5 full calendar years following the effective date of these proposed rules. This proposal is structured to encourage regular and stable timing and magnitude of rate increases—that is the same amount of supplemental rate authority, provided on an annual basis at the same time each year, over a finite period of years. This proposed magnitude and 5-

[58] For purposes of determining the amount of supplemental rate authority, competitive products are assumed to maintain the current level of contribution to institutional costs. In the 10 years following the enactment of the PAEA, revenue generated from competitive products has covered those products' attributable costs and has exceeded those products' required contribution to institutional costs.

year phasing schedule will allow mailers to plan their operations and budgets over this period. Applying this proposed supplemental rate authority in addition to the CPI–U price cap for 5 years produces estimated revenues with a net present value equal to that of a one-time rate increase of 5.7 percent above CPI–U followed by 4 years of inflation-only increases. These estimates of future revenues are developed by applying the future rate increases to current mail volumes. Market dominant product volumes have been declining overall and shifting toward lower-priced products and rates. Given these recent volume trends and the effects of price elasticity,[59] the assumption of constant mail volumes results in revenue estimates the Commission reasonably anticipates will be higher than the revenues that the proposed rate adjustment authority would actually generate. Accordingly, the Commission intends for the Postal Service to achieve cost reductions and operational efficiency gains sufficient to close the gap between total revenue and total costs.

[59] *See* Order No. 4257 at 127–30.

This proposed approach is consistent with the Commission's analyses and the resulting conclusions reached in Order No. 4257. *See generally id.* at 142–46, 247–49, 274–75. At the same time, the proposal is necessary to achieve Objective 5, as the supplemental rate authority will put the Postal Service on the path to medium-term financial stability.

b. Commission Analysis of the Alternatives

The Commission evaluated an alternative approach that would grant the Postal Service supplemental rate authority for use on a one-time basis. Specifically, this one-time rate adjustment would provide for 5.7 percentage points of rate authority for use during the first year following the effective date of these proposed rules.[60] Ultimately, the Commission determines that phasing in 2 percentage points of supplemental rate authority over 5 years better balances the PAEA's objectives.

[60] Under this option, the proposed performance-based rate authority, intended to put the Postal Service on the path to long-term financial stability, would not be available until the second year following the effective date of these proposed rules.

Both the Commission's proposal and the one-time rate adjustment option would put the Postal Service on the path to medium-term financial stability. In light of commenter views, the difficultly in forecasting the potential effects of a one-off rate adjustment, and the complications involved in correcting those potential effects, the Commission determines that spreading increases out over a longer period of time is more prudent. Spreading the increases allows the Commission, Postal Service, and stakeholders to monitor the evolving financial health, efficiency gains, cost reductions, and other goals of the ratemaking system over a period of years. Therefore, the Commission proposes to allow 2 percentage points of supplemental rate authority per year over 5 years. This determination is illustrated in Figure III–1, which illustrates that over a 5-year period, the rate increases under the Commission's proposal would be more smooth and steady than the alternative approach of providing 5.7 percentage points of rate authority in year 1.

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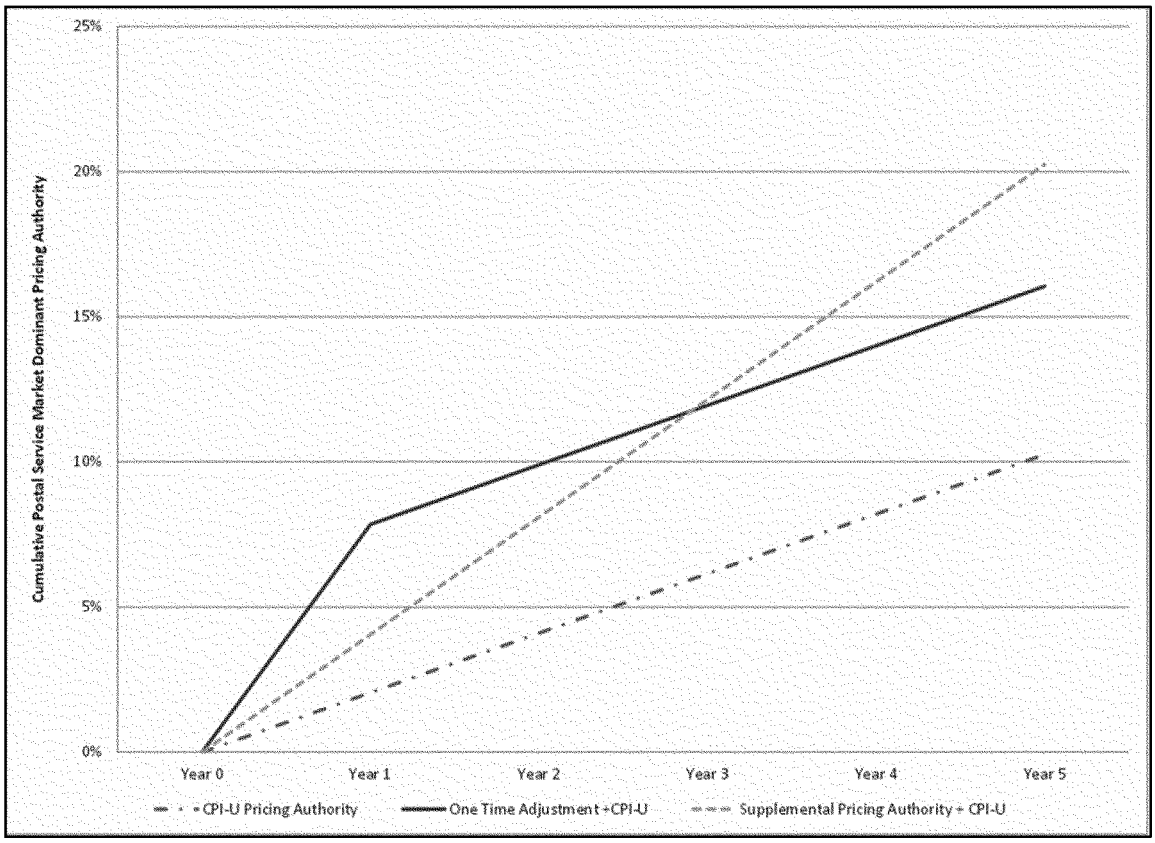
Figure III-1
Cumulative Postal Service Market Dominant Rate Adjustment Authority,
Projected Years 1-5



Source: Library Reference PRC-LR-RM2017-3/2.

In Figure III–1, CPI–U is estimated to be 2.05 percent each year for the next 5 years.[61] One-time supplemental authority of 5.7 percent, combined with a CPI–U authority pricing increase of 2.05 percent would lead to pricing authority of 7.75 percent for each class of mail. Such an increase would be well outside the industry's experience under the PAEA system of ratemaking. *See* Order No. 4257 at 106, Table II–3. The Commission notes that predicting the impacts of such a change would therefore be difficult, and the Commission, the Postal Service, and mailers would have limited opportunity to make adjustments for those impacts. On the other hand, moderated increases spread across a longer period should allow the Commission, the Postal Service, and mailers to monitor the evolving financial health, efficiency gains, cost reductions, and other goals of the ratemaking system over a period of years. As a result, the Commission proposes a series of five CPI–U price adjustments with the additional supplemental authority and finds such approach is most consistent with the metrics developed and employed by the Commission in Order No. 4257.

c. Proposed Regulatory Changes

The Commission has considered the comments and the foregoing analysis in developing proposed subpart D to 39 CFR part 3010. The Commission proposes to allocate 2 percentage points of supplemental rate authority per class of mail per calendar year for each of the first 5 full calendar years following the effective date of these proposed rules.

d. Conclusion

This proposed supplemental rate authority will address the Postal Service's ongoing financial instability by providing the opportunity for the Postal Service to generate adequate revenue and put the Postal Service on the path to financial stability which is necessary to achieve Objective 5. *See* 39 U.S.C. 3622(b)(5).

D. Performance-Based Rate Authority

1. Background

As discussed in Order No. 4257, the existing ratemaking system did not achieve the objectives during the first 10 years following the PAEA's enactment. The Commission identifies three interrelated deficiencies of the existing ratemaking system, which the Commission proposes to address through the performance-based rate authority.

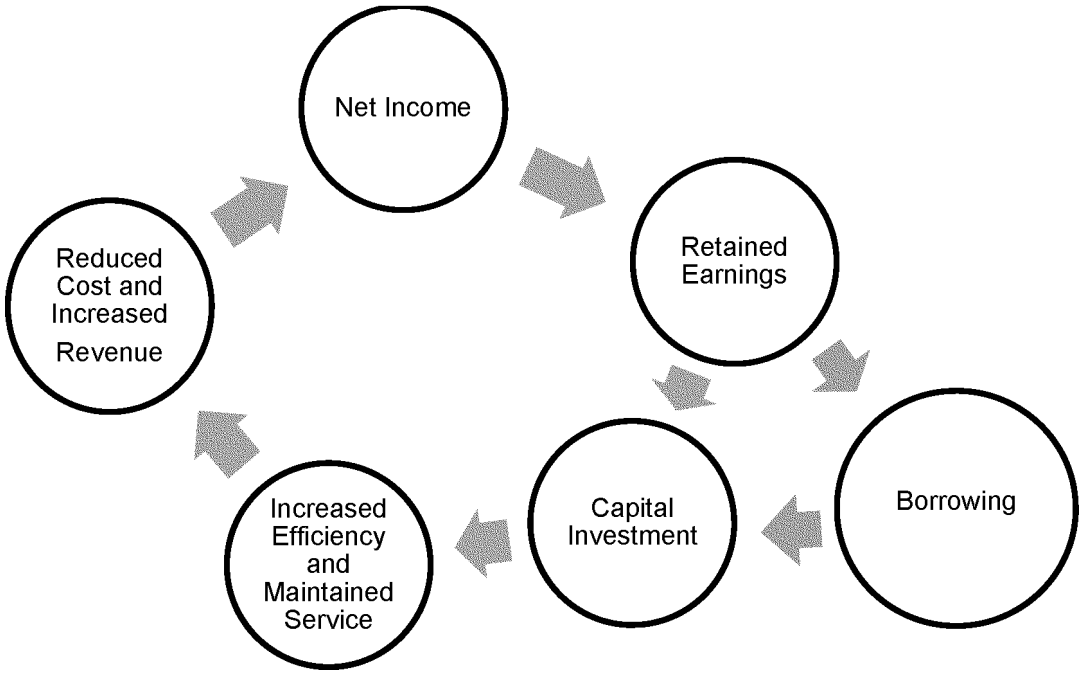
The PAEA intended the market dominant ratemaking system to enable the Postal Service to achieve financial stability. Order No. 4257 at 146. To maintain financial stability, the ratemaking system must enable the Postal Service to ''assure adequate revenues, including retained earnings,'' as required by Objective 5. *Id.* at 147 (quoting 39 U.S.C. 3622(b)(5)). Moreover, as detailed in Order No.

[61] This is consistent with the medium-term forecast by the Bureau of Labor Statistics. Bureau of Labor Statistics Employment and Economic Projections for 2016 to 2026 (as of October 2017), Excel file ''historicmacro.xls,'' tab I, row 40, available at *https://www.bls.gov/emp/ep_data_aggregate_economy.htm.*

4257, the PAEA intended that the Postal Service's financial health would be maintained in conjunction with other objectives of the PAEA. *See id.* at 274. The ratemaking system must ''maximize incentives to reduce costs and increase efficiency,'' as required by Objective 1. *Id.* at 178 (quoting 39 U.S.C. 3622(b)(1)). Further, the PAEA intended that the ratemaking system would encourage the maintenance of high quality service standards, as required by Objective 3. *Id.* at 261–62 (citing 39 U.S.C. 3622(b)(3)).

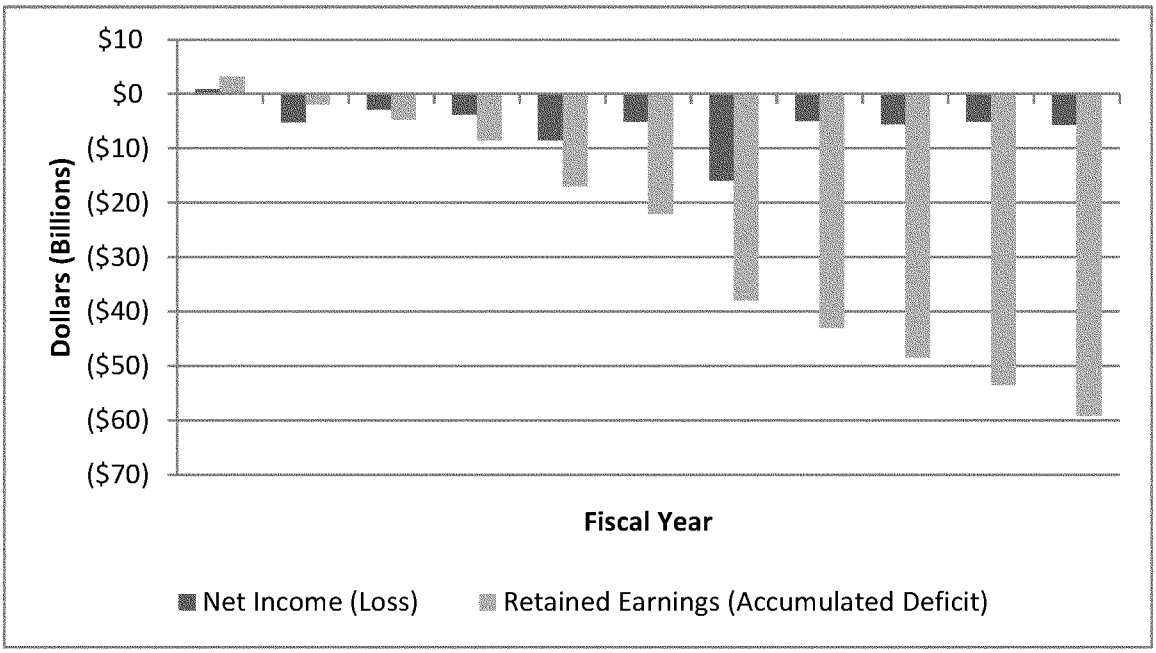
Ideally, these three objectives would function in a harmonious cycle. The cycle begins with the path to financial stability. A financially healthy Postal Service generates adequate revenues to ensure net income, which provide retained earnings. Retained earnings enable the Postal Service to make the kinds of capital investments needed to improve operational efficiency. Capital investments that improve efficiency will also likely lead to cost reductions and help maintain high quality service standards. Maintenance of high quality service standards promotes demand for postal products, which leads to increased revenue. Increased revenue and decreased costs lead to sustained net incomes, which results in retained earnings. A related but separate component to this cycle is borrowing. Retained earnings can be used to pay down debt and borrowing can be used to finance capital investments. Figure III–2 illustrates this cycle.

Figure III-2
Financial Health Cycle



However, this cycle has broken down under the existing ratemaking system because consecutive net losses have resulted in an accumulated deficit rather than retained earnings. Starting from the baseline FY 2006, Figure III–3 illustrates the Postal Service's recurring net losses and accumulated deficit during the PAEA era.

Figure III-3
Net Income and Retained Earnings (Accumulated Deficit), FY 2006 – FY 2016



Source: Library Reference PRC-LR-RM2017-3/2.

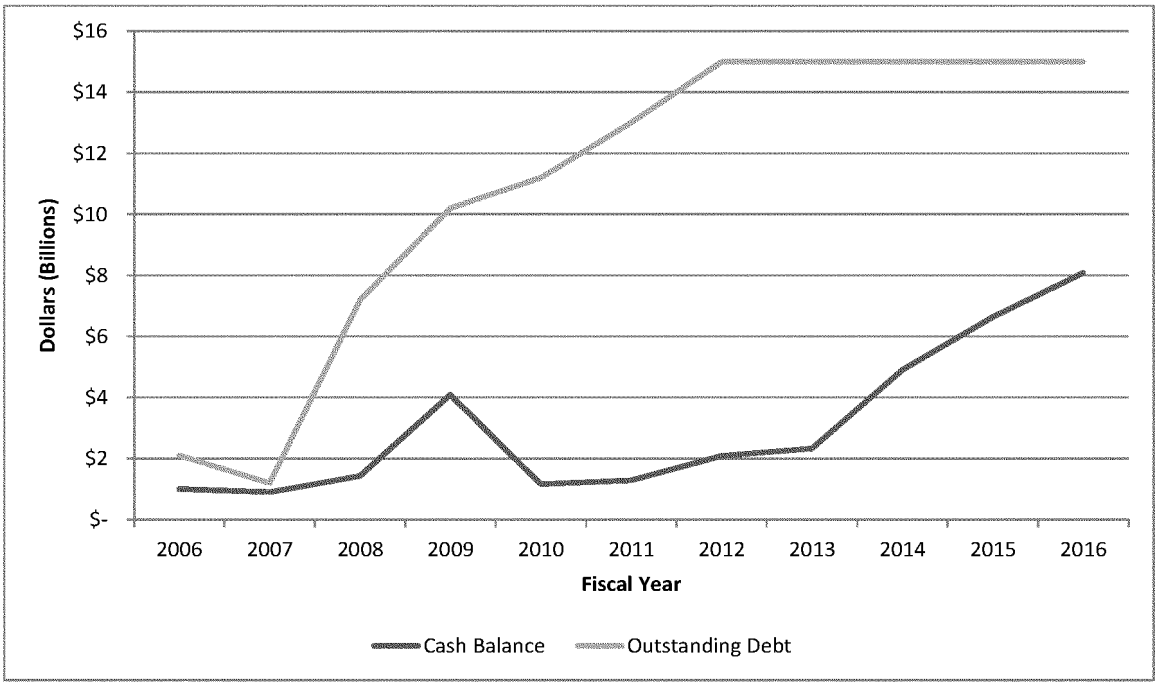
As shown in Figure III–3, the recurring net losses resulted in accumulated deficit in every year since the PAEA was enacted in FY 2007. Between FY 2008 and FY 2012, the accumulated deficit increased from $4.7 billion to $38 billion. After FY 2012, the accumulated deficit continued to grow, but at a slower rate. This was due, in part, to the exigent surcharge in place from January 2014 to April 2016.[62] The accumulated deficit of $59.1 billion in FY 2016 includes $54.8 billion in expenses related to prefunding the RHBF.[63]

The Postal Service has no shareholders and may not invest in stocks, bonds, or other financial instruments. Therefore, without retained earnings, its only means of financing capital investments is through revenue or borrowing. As accumulated deficit increased in the early years under the PAEA, the Postal Service began relying heavily on borrowing. It reached its $15 billion borrowing authority limit in FY 2012—5 years after the PAEA was enacted. *See* Order No. 4257 at 164, Table II–8. After that, the Postal Service began offsetting its lack of borrowing authority by increasing cash-on-hand. *See id.* at 163–64. Although the Postal Service has been unable to generate net income since the PAEA was enacted, it has been able to generate operating profits. Thus, while the Postal Service has not paid all of its obligations, as noted in Order No. 4257, it has been able to increase its cash reserves. *See id.* at 164, Table II–8. Figure III–4 shows the Postal Service's outstanding debt and cash on hand for FY 2006 through FY 2016.

[62] *See* Docket No. R2013–11, Order No. 1926, Order Granting Exigent Price Increase, December 24, 2013; Docket No. R2013–11, Order No. 3186, Order on Removal of the Exigent Surcharge and Related Changes to the Mail Classification Schedule, March 29, 2016.

[63] United States Postal Service, 2016 Report on Form 10–K, November 15, 2016, at 58 (Postal Service FY 2016 Form 10–K).

Figure III-4
Postal Service End of Year Outstanding Debt and Cash Balance
FY 2006 – FY 2016



Source: Library Reference PRC-LR-RM2017-3/2.

The accumulated deficit and lack of borrowing authority has severely restricted the Postal Service's ability to make capital improvements.[64] The Postal Service selects its capital improvements based on need and budget.[65] Capital commitments are made for the projects selected.[66] The Postal Service makes commitments for capital investments based, in part, on the availability of cash flow from its operations.[67] The funds used to pay for these commitments are called capital outlays.[68] Because needs and budgets vary by year, the amount of capital commitments and outlays fluctuate annually.[69]

As its accumulated deficit increased, the Postal Service began to decrease its capital commitments and subsequent outlays. Figure III–5 illustrates the change in capital commitments and outlays throughout the PAEA era.[70] Capital outlays were severely curtailed in FY 2012, FY 2013, and FY 2014.[71] This reflected the Postal Service's lack of capital commitments in the preceding years and was due in part to the Postal Service reaching its borrowing authority limit in FY 2012. In FY 2015 and FY 2016, capital outlays began to increase as the Postal Service made capital commitments based on additional revenue generated by the exigent rate increase.[72]

[64] Postal Service FY 2016 Form 10–K at 10, 32; *see also* 2015 Report on Form 10–K United States Postal Service, November 13, 2015, at 9, 46 (Postal Service FY 2015 Form 10–K); 2014 Report on Form 10–K United States Postal Service, December 5, 2014, at 9 (Postal Service FY 2014 Form 10–K).

[65] *See* Postal Service FY 2015 Form 10–K at 31 (''We continued to employ a discretionary capital expenditure plan for priority projects that are essential to conserve cash.''); *id.* (''Priority has been given to projects: 1. Needed for safety and/or health or legal requirements; 2. Required to provide service to our customers; and 3. Initiatives with a high return on investment and a short payback period.''); *id.* (''To save cash, we have also deferred facilities maintenance, which has no impact on health and safety issues.''); *see also* Postal Service FY 2014 Form 10–K at 32.

[66] *See* Postal Service FY 2015 Form 10–K at 32 n.4 (''Capital commitments pertain to purchases of equipment, building improvements, and vehicles for legally binding obligations.'').

[67] *See id.* at 31 (''The source of funds needed to fulfill these commitments was generated from our operating activities.'').

[68] *See* United States Postal Service, 2008 Report on Form 10–K, September 26, 2008, at 24 (Postal Service FY 2008 Form 10–K) (''Our capital cash outlays consist of the funds invested for new facilities, new automation equipment, and new services.'').

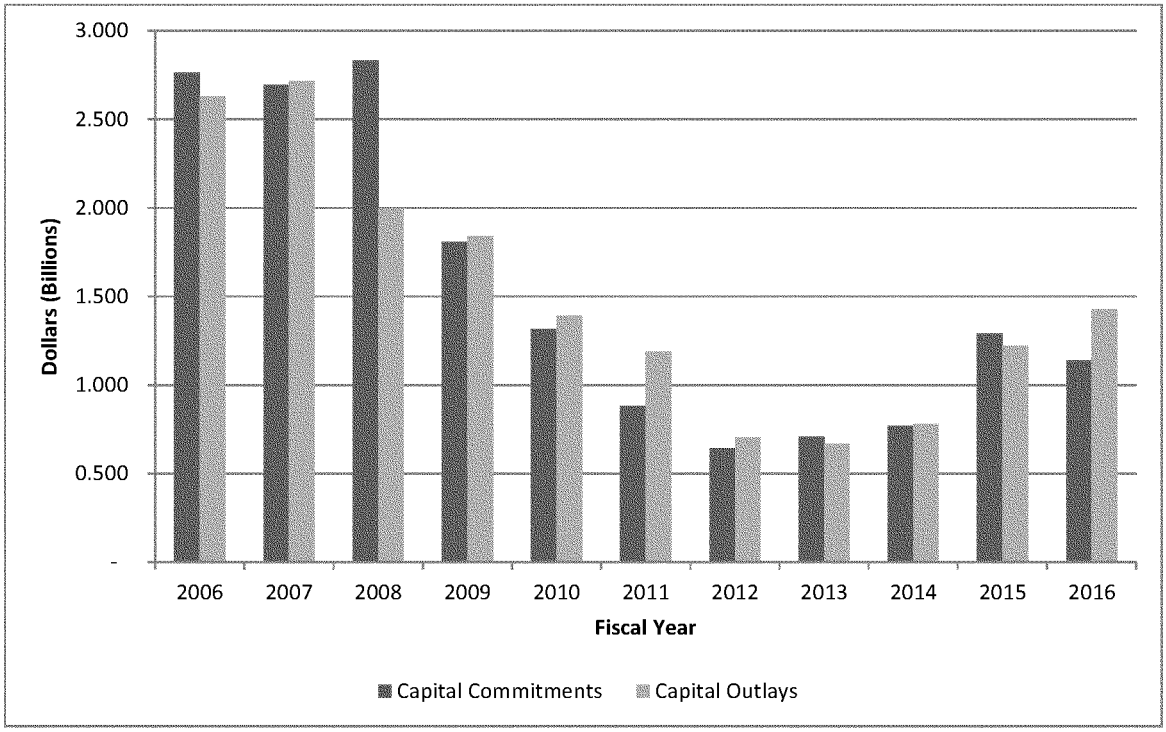
[69] *See* Postal Service FY 2014 Form 10–K at 9 (''If our operations do not generate the liquidity we require, we may be forced to reduce, delay or cancel investments in technology, facilities and/or transportation equipment, as we have done in the recent past.'').

[70] As seen in Figure III–5, the decrease in capital outlays lagged the decrease in capital commitments, as the Postal Service continued to fund capital commitments made in prior years.

[71] U.S. Postal Service Five-Year Strategic Plan, Fiscal Years 2017 to 2021, September 30, 2016, at 23 (FY 2017–2021 Strategic Plan).

[72] The Postal Service stated that ''[i]n 2016, [it] invested $1.4 billion in the purchase of property and equipment, an increase of $206 million over 2015, as [it] used additional cash on hand to fund some of [its] much-needed investments in building improvements, vehicles, equipment and other capital projects. In 2015, [it] invested $1.2 billion in the purchase of property and equipment, an increase of $441 million over 2014.'' Postal Service FY 2016 Form 10–K at 32. It also stated that ''[a]vailable liquidity (cash and short-term investments, plus available borrowing capacity) has increased by approximately $6 billion from the reported 2012 low. This improvement would not have occurred had the Postal Service not defaulted on the annual PSRHBF prefunding payments in 2012 and subsequent years. Aside from the defaults, the improvement is largely attributable to the temporary exigent surcharge . . . which generated approximately $4.6 billion in incremental revenue from January 2014 through April 10, 2016, as well as to aggressively managing capital expenditures and operating expenses under management's control.'' *Id.* at 47.

Figure III-5
Capital Commitments and Outlays, FY 2006 – FY 2016



Source: Library Reference PRC-LR-RM2017-3/2.

However, even with the increase in capital commitments and outlays in FY 2015 and FY 2016, the value of the Postal Service's net asset holdings decreased substantially during the PAEA era.[73] As shown in Table III–1 property and equipment declined by $7.8 billion, or 33.8 percent between FY 2006 and FY 2016.

[73] Net asset holdings are property and equipment recorded at cost, including interest on borrowings used to pay for the construction of major capital additions, less accumulated depreciation. FY 2016 USPS Form 10K at 44.

Table III-1
Net Asset Holdings and Capital Purchase Trends, FY 2006 – FY 2016

Fiscal Year	Property and Equipment, net	Capital Commitments	Capital Cash Outlays
2006	$23,095	$2,760	$2,630
2007	$23,596	$2,694	$2,715
2008	$23,193	$2,830	$1,995
2009	$22,680	$1,809	$1,839
2010	$21,595	$1,315	$1,393
2011	$20,337	$881	$1,190
2012	$18,863	$644	$705
2013	$17,512	$708	$667
2014	$16,338	$770	$781
2015	$15,686	$1,288	$1,222
2016	$15,296	$1,139	$1,428
Change FY 2006 to FY 2016	($7,799)	($1,621)	($1,202)
Percent change FY 2006 to FY 2016	-33.8%	-58.7%	-45.7%

Source: Library Reference PRC-LR-RM2017-3/2.

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The Postal Service's sharp decline in capital investments contributed to the system not achieving Objective 1 (''maximize incentives to reduce costs and increase efficiency''), Objective 3 (''maintain high quality service standards established under section 3691''), and Objective 5 (''assure adequate revenues, including retained earnings, to maintain financial stability''). 39 U.S.C. 3622(b)(1), (3), and (5). The lack of financial stability, insufficient levels of efficiency gains and cost reductions, and inability to adequately encourage the maintenance of service standard quality were interrelated causes and effects of the deficiencies experienced under the existing ratemaking system.

To address these interrelated deficiencies, the ratemaking system must provide the Postal Service the opportunity to generate additional revenue coupled with incentives to increase operational efficiency and maintain high quality service standards. Therefore, the Commission determines that it is necessary to provide additional rate authority to put the Postal Service on the path to long-term financial stability, contingent on the Postal Service meeting particular performance-based thresholds.

2. Amount of Performance-Based Rate Authority

After balancing the objectives of the ratemaking system, the Commission determines that the best course of action is not to provide the Postal Service a specific level of retained earnings or a set amount of funding for capital investment but rather to put the Postal Service on a path to long-term financial stability while providing meaningful incentives for the Postal Service to increase operational efficiency and maintain high quality service standards. Given the importance of capital investment to the cycle shown in Figure III–2, *supra,* the Commission finds that capital investment data from the PAEA era are appropriate reference points. As a result of its analysis below, the Commission determines that the appropriate amount of performance-based rate authority is 1 percentage point per annum.

This amount was determined by analyzing net asset holdings, capital outlays, and borrowing authority. The $7.8 billion needed to replace the net asset holdings that declined in the PAEA era represents approximately 16 percent of FY 2017 market dominant revenue. Capital outlays were approximately $1.2 billion less in FY 2016 than in FY 2006, the last fiscal year before PAEA was enacted. The reduction in the annual capital outlays that occurred during the PAEA era represents approximately 2.5 percent of FY 2017 market dominant revenue. The $15 billion in borrowing authority that the Postal Service exhausted during the PAEA era represents approximately 31 percent of FY 2017 market dominant revenue. Taking into account these reference points, the impact of the proposed supplemental rate authority, and the rate increases experienced during the PAEA era, the Commission applies its expert judgment in postal matters to determine that 1 percentage point per annum is the appropriate amount of performance-based rate authority.

All other things being equal, the 1 percentage point of proposed performance-based rate authority would allow the Postal Service to return to pre-PAEA levels of capital outlays in just over 2 years. In approximately 5 years, the proposed performance-based rate authority would produce enough cumulative additional revenue to allow the Postal Service to replace the $7.8 billion decrease in net capital assets that occurred in the PAEA era. It would take approximately 9 years of accumulated additional revenue at a 1-percent rate of increase in prices to also pay off the $15 billion in borrowing authority the Postal Service exhausted during the PAEA.

These calculations assume that all of the future rate increases are applied to FY 2017 volumes. As noted in section III.C.2, *supra,* market dominant product volumes have been declining overall, as well as shifting toward lower-priced products and rates. Given these trends, and the mailers predicted responses to price increases, the Commission anticipates that the amount of additional revenue generated by this proposed performance-based rate authority will be less than these calculations suggest. As noted above, the Postal Service will need to improve operational efficiency to achieve financial stability. Given the uncertainty as to the exact amount of revenues the performance-based rate authority will produce and how much improvement in efficiency the Postal Service will achieve under this approach, the Commission will review the Postal Service's long-term financial stability after the supplemental rate authority expires and consider whether adjustments to the performance-based rate authority should be made. *See* section III.B.3, *supra.*

Because of the interdependence of long-term financial stability, operational efficiency, and service quality, the Commission addresses these jointly by linking the availability of this additional rate authority to efficiency and service standard metrics. To facilitate this combined approach, the additional rate authority is structured as an annual amount that is conditioned on the achievement of efficiency gains and the maintenance of service standards. The full amount of the proposed performance-based rate authority will not be available if the Postal Service does not meet or exceed an operational efficiency-based standard and adhere to service standard quality criteria. The magnitude, timing, and conditional design of this mechanism balances the need to ensure the long-term financial stability of the Postal Service (Objective 5), maximize incentives to reduce costs and increase efficiency (Objective 1), and maintain high quality service standards (Objective 3) with the other statutory objectives of the PAEA consistent with the analysis in Order No. 4257.

3. Performance Incentive Mechanism

The Commission has carefully considered how to allocate this additional rate authority in a manner that will address the interrelated systemic deficiencies. The Commission finds that although additional revenue is needed, additional revenue, alone, is insufficient to address the need to also increase operational efficiency and maintain high quality service standards. As discussed in Order No. 4257, all of these are necessary in order for the system to achieve the objectives of 39 U.S.C. 3622(b). Therefore, the Commission proposes to address these interrelated issues through the creation of a Performance Incentive Mechanism (PIM). Generally, a PIM takes the form of either a bonus (*e.g.,* additional rate authority) or a penalty (*e.g.,* reduction in rate authority) tied to performance criteria. The use of PIMs may be particularly appropriate where the regulated entity, such as the Postal Service, is subject to cost-cutting pressures.[74]

a. Proposed Commission Solution

Consistent with the analysis in Order No. 4257, the solution proposed by the Commission is necessary to achieve several of the PAEA's objectives. In fashioning the incentive mechanism, the Commission has specifically focused on Objective 1 (maximizing incentives to reduce costs and increase efficiency), Objective 3 (maintaining high quality service standards), and Objective 5 (assuring adequate revenues, including retained earnings, to maintain financial stability), and the Commission's related analysis in Order No. 4257. *See* 39 U.S.C. 3622(b)(1), (3), and (5).

The Commission proposes to make this performance-based rate authority conditional on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria. Using a performance-based approach should encourage the Postal Service to maintain service standard quality and maximize incentives to increase efficiency—thereby addressing areas where the existing ratemaking system was deficient in the 10 years following the enactment of the PAEA. In line with the general premise that improved operational efficiency should help to improve service, the Commission determines that it is appropriate to attach more weight to the operational efficiency aspect of the incentive mechanism. Therefore, the Commission divides this 1 percentage point of performance-based rate authority between an operational efficiency-based standard (0.75 percentage points), and service quality-related criteria (0.25 percentage points).

b. Proposed Regulatory Changes

The Commission has considered the comments and the foregoing analysis in developing proposed subpart E to 39 CFR part 3010, which sets forth the criteria for the availability of performance-based rate authority. The Commission proposes to allocate up to 1 percentage point of rate authority based on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria.

c. Conclusion

This proposed performance-based rate authority will address three interrelated deficiencies in the existing ratemaking system: Generating sufficient revenue to assure long-term financial stability, maximizing incentives to reduce costs and increase efficiency, and maintaining high quality service standards. This proposed performance-based rate authority is necessary to achieve Objectives 1, 3, and 5. In sections III.D.4 and III.D.5, *infra,* the Commission details the specifics of the operational efficiency and service aspects of the incentive mechanism.

4. Operational Efficiency

a. Introduction

The existing market dominant ratemaking system did not maximize incentives to increase operational efficiency in accordance with Objective 1. Order No. 4257 at 222; 39 U.S.C. 3622(b)(1). Consistent with Order No. 4257, the Commission uses total factor productivity (TFP) as its determinative metric for operational efficiency because it is the best available measure of efficiency. Order No. 4257 at 206.

Because TFP contains all of the components needed to determine the efficiency of a multi-product firm and comprehensively accounts for both the inputs and outputs of the Postal Service, TFP reflects the efficiency changes that occur in a given year. *Id.* To arrive at the final TFP figure, the model divides the workload index by the input index as follows:

[74] *See* Mark Newton Lowry & Tim Woolf, *Performance-Based Regulation in High Distributed Energy Resources Future,* Lawrence Berkley National Laboratory, Report No. 3, January 2, 2016; *see also* Melisa Whited, Tim Woolf, & Alice Napoleon, *Utility Performance Incentive Mechanisms: A Handbook for Regulators,* Western Interstate Energy Board, March 9, 2015.

$$TFP = \frac{Workload}{Input} := \frac{f(Output, Network)}{f(Labor, Capital, Materials)}$$

The Postal Service calculates TFP annually and files that figure and the supporting data with the Commission.[75] The Postal Service detailed the current TFP methodology in Docket No. N2010–1.[76] The Commission considers this methodology an accepted analytical principle. Order No. 4257 at 207. As such, any future changes to this methodology are subject to Commission review and approval through the rulemaking process appearing in existing § 3050.11. *Id.*

TFP generally increased during the PAEA era. *Id.* at 208. However, the system was: (1) Unable to achieve operational efficiency gains sufficient to contribute to the financial stability of the Postal Service; and (2) unable to achieve increases in efficiency at a greater rate than in the relevant comparable time period (the 10 years prior to implementation of the PAEA). *Id.* at 222–26. Therefore, the Commission proposes modifications to the ratemaking system to incentivize the Postal Service to address these deficiencies.

b. Comments

The Postal Service and the Public Representative include detailed evaluations of operational efficiency in their comments.

The Postal Service retained Christensen Associates (Christensen) to provide an evaluation of TFP as a measure of operational efficiency. Postal Service Comments at 57 (citing Postal Service Comments, Appendix D). The TFP methodology as used by the Postal Service was initially developed by Christensen in 1983. Postal Service Comments, Appendix D at 2. In an appendix attached to the Postal Service's comments, Christensen explains the calculation of TFP, compares TFP to other potential ways of measuring efficiency gains, and discusses how TFP results should be assessed. *See id.* Appendix D. Christensen concludes that TFP is a more comprehensive measure of operational efficiency than the other measures considered by the Commission, but Christensen cautions that the TFP measurement is subject to substantial year-to-year variation. *Id.* at 4–5. Christensen recommends analyzing TFP trends over multi-year periods when evaluating TFP improvements. *Id.* at 6. The Postal Service echoes Christensen's concern that if TFP is to be used an evaluation tool, it is important to look at TFP trends over several years, rather than at annual TFP results in isolation. Postal Service Comments at 57, 197.

The Postal Service suggests that the price cap is no longer necessary to incentivize the Postal Service to aggressively focus on increasing operational efficiency and reducing costs. *Id.* at 190. The Postal Service maintains that the efficiency gains that have occurred during the PAEA era were driven more by the Postal Service's strategy to respond to volume declines presented by the ''new normal'' marketplace than by the discipline imposed by the price cap. *Id.* Therefore, the Postal Service states that even without a price cap, it has strong incentives to reduce costs and increase efficiency in order to restrain price increases and thereby minimize further volume decline. *Id.*

Moreover, the Postal Service asserts that a lack of financial stability, which it attributes to the price cap, inhibits its ability to ensure the efficiency of its operations by limiting its ability to make capital investments. *Id.* at 193. Further, the Postal Service acknowledges that ''after 17 years of substantial efficiency gains and cost reductions, it must be recognized that the ability to achieve *additional* reduction in those costs that are within the Postal Service's control will be more difficult moving forward.'' *Id.* at 194 (emphasis in original). In support of this premise, Christensen observes ''in order to continually increase TFP, the Postal Service must continue to find new ways to reduce costs.'' *Id.* Appendix D at 6.

The Public Representative suggests that there is a high level of uncertainty associated with measuring the efficiency of the Postal Service. PR Comments at 28. In her declaration in support of the Public Representative, Dr. Lyudmila Y. Bzhilyanskaya acknowledges that TFP has been widely used to assess productive efficiency in service industries but comments that she has reservations regarding the utilization of TFP as an exhaustive measure of efficiency. Bzhilyanskaya Decl. at 8. She states that technological progress and other aspects of efficiency (such as scale efficiency, allocative efficiency, and/or dynamic efficiency), may not be fully reflected in the TFP metric but are still important for the Postal Service. *Id.* She also states that annual TFP indexes focus more on short-term productivity and do not always consider long-term productivity, which is better reflected by cumulative TFP indexes and/or TFP trends. *Id.* at 9. Moreover, she expresses concern that TFP is not capable of capturing changes in product and/or service quality. *Id.* at 12. She suggests improvements to the transparency of information related to the TFP indexes, exploration of alternative indexing procedures, and adjustments when new products are introduced or a product is transferred from the market dominant to the competitive products list. *Id.* at 5–7, 10–11.

Other commenters discuss operational efficiency more generally. ANM *et al.* assert that the Postal Service's productivity has been stagnant. ANM *et al.* Comments at 6. They maintain that the Postal Service ''needs to revive its cost saving efforts and make serious progress in network rationalization and delivery mode conversion.'' ANM *et al.* Comments at 6–7, 51–53.

NNA recommends encouraging specific practices to increase operational efficiency for newspapers such as more efficient container preparation and increased use of Intelligent Mail barcodes. NNA Comments at 3–4.

APWU maintains that the Postal Service has largely realized all of the efficiencies that it can, forcing it to turn to service cuts and forestall capital investments for efficiency improvements and new product development. APWU Comments at 10. It asserts that the TFP gains occurring after 2007 came at the expense of service. *Id.* at 26.

c. Proposed Commission Solution

Based on the comments and the Commission's analysis in Order No. 4257, the Commission proposes to use a performance-based mechanism to encourage the Postal Service to maximize the incentives to increase operational efficiency by allocating 0.75 percentage points of performance-based rate authority based on the Postal Service meeting or exceeding an operational efficiency-based standard. The Commission refers to this proposed rate authority as the operational efficiency-based rate authority.

[75] *See, e.g.,* USPS Annual Tables, FY 2016 TFP (Total Factor Productivity), March 1, 2017.

[76] *See* Docket No. N2010–1, Responses of the United States Postal Service to MPA Interrogatories MPA/USPS–T2–2–7.a.–c., 8–12, Redirected from Witness Corbett, June 23, 2010, file ''MPA.T2.3.b.TFP.Formulas.pdf.''

Consistent with its analysis in Order No. 4257, the Commission proposes to measure operational efficiency for purposes of this incentive mechanism using TFP. Conditioning rate authority on increases in TFP incentivizes the Postal Service to maximize output while minimizing costs, leading to improvements in operational efficiency. Using a performance-based approach to incentivize continued TFP growth will help incentivize the Postal Service to overcome the challenges to finding new ways to increase efficiency referenced by the Postal Service and Christensen.

The Commission proposes to evaluate as part of its ACD whether average TFP growth for the most recent 5-year period has met or exceeded 0.606 percent. The standard of 0.606 percent reflects the average growth for TFP over the most recent 5 fiscal years of the PAEA era, *i.e.,* for the 5-year period from FY 2011 to FY 2016.[77] If the Commission finds that such is the case, then the 0.75 percentage points of operational efficiency-based rate authority shall be allocated to each class of mail for the next calendar year. If the Commission finds that average TFP growth for the most recent 5-year period has not met or exceeded 0.606 percent, then the 0.75 percentage points of operational efficiency-based rate authority shall not be made available to the Postal Service. This proposed procedure will give the Postal Service and ratepayers adequate advance notice of whether the 0.75 percentage points of operational efficiency-based rate authority will be available to the Postal Service to use for the next calendar year.

The Commission anticipates that the Postal Service's operational efficiency for the next 5 years will continue to increase at least at the same rate that it has over the most recent 5 years of the PAEA era. The Commission may reevaluate this standard after the expiration of the proposed supplemental rate authority.

Use of a rolling 5-year average for TFP growth should allow enough time for the effects of any long-term investments to appear in the TFP calculation. This also minimizes the possibility raised by both the Postal Service and Christensen of an isolated annual result being unrepresentative. Moreover, this approach is consistent with the Commission's maximization analysis in Order No. 4257, which compared the pace of efficiency gains by comparing the 10 years of experience in the PAEA era and the 10 years immediately preceding implementation of the PAEA. *See* Order No. 4257 at 248. This approach, therefore, should incentivize the Postal Service to achieve efficiency gains sufficient to contribute to the financial stability of the Postal Service.

Existing § 3050.60(e) requires the Postal Service to provide the input data and calculations used to product the annual TFP estimates by March 1 of each year. This rule facilitates the Commission's ability to evaluate proposed methodological changes under existing § 3050.11 and the public's ability to access and understand such changes. Additionally, to increase the transparency of TFP, the Commission intends to use existing § 3050.2, which requires documentation of periodic reports (*e.g.,* calculations and links within and between spreadsheets) to ensure that TFP is measured and calculated in a transparent manner. Order No. 4257 at 207.

d. Commission Analysis of Alternatives

Although the Public Representative and the Postal Service noted the limitations of TFP as a measurement of operational efficiency, no commenter proposed an alternative measurement. Christensen evaluated other measurements proposed by the Commission in Order No. 3673, such as real unit operating costs, simpler productivity measures, and total workhours. Postal Service Comments, Appendix D at 4. Christensen concluded that these measures do not fully capture the complexity of Postal Service efficiency in comparison to TFP. *Id.* The Commission agrees with these conclusions. Moreover, Order No. 4257 discusses several other ways to measure efficiency and concludes that TFP is the best metric available to assess the Postal Service's efficiency. *See* Order No. 4257 at 206.

The Postal Service comments that the price cap affects its ability to raise capital to make necessary improvements. Postal Service Comments at 130. However, removing the price cap entirely might further weaken the Postal Service's existing incentives to maximize operational efficiency. Conditioning the availability of the operational efficiency-based rate authority on measurable TFP growth should ensure that improving the Postal Service's financial stability does not occur at the expense of continuing to increase operational efficiency. Therefore, the proposed solution is necessary to achieve efficiency gains sufficient to contribute to the financial stability of the Postal Service.

e. Proposed Regulatory Changes

The Commission has considered the comments and the foregoing analysis in developing proposed subpart E to 39 CFR part 3010, which sets forth the criteria for the availability of performance-based rate authority. Proposed § 3010.180 describes the applicability of both the operational efficiency-based rate authority and the service quality-based rate authority. Proposed § 3010.181 outlines the procedure for allocation of the operational efficiency-based rate authority.

f. Conclusion

The Commission proposes to allocate 0.75 percentage points of rate authority based on the Postal Service meeting or exceeding an operational efficiency-based standard. This proposed operational efficiency-based rate authority will address that the existing ratemaking system did not maximize the incentives to increase efficiency, as required by Objective 1. Therefore, this proposed operational efficiency-based rate authority is necessary to achieve Objective 1. The proposal balances the need to provide the Postal Service with the opportunity to generate additional revenue necessary to attain long-term financial stability and the danger that increased revenue might weaken the Postal Service's incentives to operate more efficiently.

5. Service

a. Introduction

The existing ratemaking system limits rate increases, and by extension, revenue (assuming volume for market dominant products does not significantly increase). Therefore, as discussed above, cost reduction and operational efficiency improvements are critical to putting the Postal Service on the path to financial stability and retained earnings. However, without adequate incentives requiring service to be maintained, reducing service may be a means of reducing costs. Therefore, the PAEA intended that the system should be designed to encourage the maintenance of high quality service standards (established under 39 U.S.C. 3691) and to hold the Postal Service accountable for consistently achieving those standards, as required by Objective 3. Order No. 4257 at 250 (citing 39 U.S.C. 3622(b)(3)).

The PAEA required the Postal Service to establish, in consultation with the Commission, an initial set of service standards for market dominant products to take effect within 1 year of the PAEA's enactment. *Id.* at 42 (citing 39

[77] The 5-year average is 0.605656, which the Commission rounds to 0.606.

U.S.C. 3691(a)). The Postal Service may adjust service standards from time to time, subject to the requirement that it seek an advisory opinion from the Commission before doing so on a substantially nationwide basis. *Id.* at 251 n.366 (citing 39 U.S.C. 3661(b); 39 U.S.C. 3691(a)). Service standards are determined by two components: A ''delivery day range,'' which comprises the range of days within which all mail eligible for the service standard can be expected to be delivered (*e.g.,* between 1 and 5 days for First-Class Mail); and ''business rules,'' which determine eligibility for each specific service standard (*e.g.,* 1-Day (referred to as ''overnight''); 2-Day; and 3–5-Day for First-Class Mail). *Id.* at 250.

The initial service standards were reduced during the PAEA era through two major sets of revisions made by the Postal Service. *Id.* at 266. The first set of revisions began in FY 2012 when the Postal Service implemented its ''Mail Processing Network Rationalization'' initiative (Network Rationalization).[78] Network Rationalization substantially affected the level of service for multiple mail classes multiple market-dominant mail classes, including First-Class Mail, Standard Mail, Periodicals, and Package Services. Order No. 4257 at 266. Most significantly, Network Rationalization eliminated overnight service for all First-Class Mail pieces sent by retail customers (First-Class Mail Single-Piece Letters/Postcards). Network Rationalization Revisions at 31, 194. The second set of revisions began in FY 2014 when the Postal Service implemented its ''Standard Mail Load Leveling'' initiative (Load Leveling), which added 1 day to the applicable delivery day range for certain Standard Mail pieces.[79]

The Postal Service asserted that both sets of revisions to the service standards were undertaken to improve operational efficiency. Network Rationalization Revisions at 31,191; Load Leveling Revisions at 12,390. Both sets of revisions increased the expected days-to-delivery for the affected mailpieces. Order No. 4257 at 268–69.

The Commission issued an advisory opinion applicable to Network Rationalization concluding that it was possible for the Postal Service to undertake significant network rationalization and to realize substantial cost savings while preserving most of the initial service levels.[80] The Commission issued an advisory opinion applicable to Load Leveling recommending that the Postal Service perform additional analysis of ''operational changes that could potentially result in unintended consequences,'' such as diminished service performance, before proceeding with a nationwide rollout.[81] Despite these advisory opinions issued by the Commission, the Postal Service proceeded with both sets of revisions. Order No. 4257 at 266.

The decline of service standards during the PAEA era demonstrates that the existing ratemaking system did not effectively encourage the Postal Service to maintain service quality. *See id.* at 269. This creates a danger that the Postal Service could reduce service standards below the high quality level required by Objective 3. *Id.* Therefore, the Commission considers what, if any, action is appropriate with respect to service.

b. Comments

Many commenters express dissatisfaction with their current service. *See, e.g.,* NNA Comments at 3. The comments also contain a range of proposed solutions related to service, which the Commission summarizes below. Because the majority of comments concerning service are incorporated within proposals to eliminate, modify, or retain the existing price cap, the Commission subdivides its summary of the comments into three corresponding subsets. Proposals related to service that are suggested independent of a proposal to eliminate, modify, or retain the price cap are summarized in a fourth subset below.

(1) Comments in Support of Eliminating the Price Cap To Improve Service

The Postal Service and the unions suggest that eliminating the price cap will allow the Postal Service to collect more revenue and thereby improve service.

The Postal Service contends that having sufficient resources to ensure financial integrity is a prerequisite to maintaining high quality service. Postal Service Comments at 44–45. The Postal Service asserts that the lack of financial liquidity has caused it to defer capital investments needed to sustain service. *Id.* at 89. The Postal Service cautions that continued deferral of capital investment would be inconsistent with ''providing appropriate levels of service in an efficient manner.'' *Id.* Therefore, the Postal Service recommends that the Commission, in conjunction with eliminating the price cap, monitor service performance. *Id.* at 218–19, 221–22. The Postal Service opposes the application of a quality of service factor (Q-Factor) to the price cap as needlessly complex and counter-productive to remediating service issues. *Id.* at 222 at n.435.

Similarly, NALC favors eliminating the price cap based on its contention that adequate revenues are necessary to fulfill the Postal Service's fundamental mission to provide prompt and reliable postal services nationwide. NALC Comments at 1.

APWU asserts that the price cap pressures the Postal Service to reduce costs at the expense of service. APWU Comments at 26. Stating that ''Congress did not anticipate a decrease in mail volume, an increase i[n] delivery points, a recession, and [a] change in [the] mail mix,'' APWU recommends that the Commission move away from the price cap system to a more flexible system that will allow the Postal Service to better ''respond to varied and unexpected changes.'' *Id.* at 29. Eighteen officers of local chapters of the APWU also recommend eliminating the price cap and assert that the financial harms flowing from the price cap have reduced the quality of service standards and service performance.[82]

(2) Comments in Support of Incentivizing Service Improvements Under a Modified Price Cap

Other commenters suggest improving service under a modified price cap. Although the Public Representative asserts that the Commission could modify the price cap to include a Q-Factor to link service and rates directly, he cautions that imposing a Q-Factor would be premature, especially if the Commission significantly changes other aspects of the system that may positively affect service. PR Comments at 59. Therefore, he recommends that in the short-term, the Commission continue to monitor service performance. *Id.* at 60. He suggests that the Commission focus this proceeding

[78] *See* Revised Service Standards for Market-Dominant Mail Products, 77 FR 31190 (May 25, 2012) (Network Rationalization Revisions).

[79] *See* Service Standards for Destination Sectional Center Facility Rate Standard Mail, 79 FR 12390, 12393 (March 5, 2014) (Load Leveling Revisions).

[80] Docket No. N2012–1, Advisory Opinion on Mail Processing Network Rationalization Service Changes, September 28, 2012, at 45 (Network Rationalization Advisory Opinion).

[81] Docket No. N2014–1, Advisory Opinion on Service Changes Associated With Standard Mail Load Leveling, March 26, 2014, at 49–50.

[82] Thomas Comments at 1; Whalen Comments at 1; Oldt Comments at 1; VanScyoc Comments at 1; Corley Comments at 1; Rathore Comments at 1; Fallacara Comments at 1; Cliche Comments at 1; Landry Comments at 1; Fawcett Comments at 1; Bieberitz Comments at 1; Collins Comments at 1; Sarcone Comments at 1; Preminger Comments at 1; Bates Comments at 1–2; Casselli Comments at 1; Athanaskos at 1; Pagaduan Comments at 1.

on adjusting the price cap to relieve the financial pressure on the Postal Service. *Id.* If those changes to the system improve the Postal Service's financial stability and service performance still fails to improve, then he suggests considering a penalty-style Q-Factor that would adjust the price cap downward. *Id.*

MH and NAAD suggest that the Commission consider potential service consequences when evaluating proposed rate changes. MH and NAAD Comments at 11. They also advise that the Commission ensure that cost-control (or revenue-limitation) does not lead to unavoidable Postal Service management decisions that decrease achievement of service objectives. *Id.*

UPS, which proposes to retain the price cap, suggests that any proposals to relax the price cap should be counterbalanced by raising and enforcing service standards. UPS Comments at 6.

(3) Comments in Support of Retaining the Price Cap To Maintain Service

Several commenters contend that eliminating or relaxing the price cap may negatively affect service because the price cap has incentivized the Postal Service to make needed service-related changes in order to improve operational efficiency. For instance, Minnesota Power asserts that ''[t]he CPI cap is a necessary tool to encourage the Postal Service to improve service and further reduce costs.'' Minnesota Power Comments at 2. AF&PA agrees that ''[r]emoving or raising the CPI price cap would remove these important incentives, resulting in a less efficient Postal Service with lower quality service . . . .'' AF&PA Comments at 6. MMA *et al.* question whether increased revenues would improve service by suggesting that there is inadequate evidence to determine whether rate increases positively affect service. MMA *et al.* Comments at 25–26. Similarly, SIIA asserts that there is no reason to expect that increased rates would improve service. SIIA Comments at 8. GCA asserts that service problems have been attributable to decisions to realign the Postal Service's networks rather than the price cap. GCA Comments, Appendix B at 1.

(4) Other Proposals Related to Service Performance

Multiple commenters focus on improving service performance. Several commenters discuss the importance of consistent and reliable on-time service performance.[83] Some commenters discuss the need to improve service performance measurement and monitoring.[84] Connecting service performance with operational efficiency, some commenters suggest operational improvements that the Postal Service could consider to improve efficient service performance.[85]

c. Proposed Commission Solution

Based on the comments and the Commission's analysis in Order No. 4257, the Commission proposes to use a performance-based mechanism to encourage the Postal Service to maintain service standard quality by allocating 0.25 percentage points of the performance-based rate authority based on the Postal Service adhering to service standard quality criteria. The Commission refers to this proposed rate authority as the service quality-based rate authority.

The Commission proposes that the service quality-based rate authority be allocated for a class of mail if all of the Postal Service's service standards (including applicable business rules) for that class for the applicable year met or exceeded the service standards in place during the prior fiscal year on a nationwide or substantially nationwide basis. To facilitate this review, the Commission proposes to require the Postal Service to provide in its Annual Compliance Report (ACR) a description of and reason for any changes to service standards, or to certify that no changes to service standards have been made, since the last ACR. Under the proposed rules, the Commission would issue a preliminary determination, specific to each class of mail, at the time of the ACD.

Under the proposed rules, any interested person will have 30 days to challenge this preliminary determination. The subject matter of the challenge is limited to changes in the service standards, including the business rules, that occur on a national or substantially nationwide basis. If no timely challenge is filed, the preliminary determination shall become final. If a timely challenge is filed, then the Commission will rule on any challenge within 60 days after the filing of the challenge. Any service quality-based rate authority allocated under this process would be available to the Postal Service for the upcoming calendar year. This proposed procedure will give the Postal Service and ratepayers adequate advance notice of whether, for each class, the 0.25 percentage points of service quality-based rate authority will be available to the Postal Service to use for the next calendar year.

This service quality-based rate authority is linked to the service standards and the business rules rather than actual service performance such as on-time delivery performance. Service performance issues are most appropriately dealt with in the ACD. Order No. 4257 at 273.

d. Commission Analysis of Alternatives

Ultimately, the Commission strives to balance competing policy concerns in a manner that will encourage the Postal Service ''[t]o maintain high quality service standards established under section 3691,'' as required by Objective 3. 39 U.S.C. 3622(b)(3). On the one hand, the Commission has considered comments contending that the operation of the price cap over the past 10 years has placed extreme financial pressure on the Postal Service to cut costs, resulting in the failure to maintain service standards. The Commission also has given weight to other comments cautioning that relaxing or eliminating the price cap may weaken incentives to provide efficient and reliable service. Moreover, the Commission has considered the commenters' concerns regarding the Postal Service's use of its revenues and resources with respect to service. Therefore, the Commission proposes rules to strike a balance between relieving the financial pressure to allow the Postal Service the opportunity to improve service and incentivizing the Postal Service to maintain high quality service standards for its market dominant products.

The Commission agrees with the comments proposing to continue the existing approach to address service performance issues. The Commission also agrees with the Public Representative that introduction of a Q-Factor is premature given the other changes being proposed that may affect service. Overall, the Commission encourages the Postal Service to continue its efforts to improve service performance. The Commission recommends that the Postal Service consider the operational and monitoring improvements suggested by the commenters in this proceeding and continue its work with stakeholders on these issues outside of this proceeding.

[83] AF&PA Comments at 9; ANM *et al.* Comments at 53 n. 34; SIIA Comments at 7.

[84] NNA Comments at 19; GCA Comments, Appendix B at 6.

[85] Furka Comments at 7–9 (suggesting zoning changes); Yao Comments at 2, 4 (addressing staffing and capacity concerns); NNA Comments at 3 (recommending ''continuous improvement in operations'' to improve service).

e. Proposed Regulatory Changes

The Commission has considered the comments and the foregoing analysis in developing proposed subpart E to 39 CFR part 3010, which sets forth the criteria for the availability of performance-based rate authority. Proposed § 3010.180 describes the applicability of both the operational efficiency-based rate authority and the service quality-based rate authority. Proposed § 3010.182 outlines the procedure for allocation of the service quality-based rate authority. Changes are proposed to existing § 3055.2 to require that the Postal Service provide in its ACR a description of and reason for any changes to service standards, or to certify that no changes to service standards have been made, since the last ACR.

f. Conclusion

The Commission proposes to allocate 0.25 percentage points of rate authority based on the Postal Service's adhering to service standard quality criteria. This will encourage the Postal Service to maintain high quality service standards, as necessary to achieve Objective 3. This approach balances the need to assure Postal Service's long-term financial stability and encourage the Postal Service to maintain high quality service standards.

E. Non-Compensatory Classes and Products

1. Introduction

As explained in Order No. 4257, non-compensatory products threaten the financial integrity of the Postal Service because the revenue from these products does not cover their attributable cost. Order No. 4257 at 234–35. During the PAEA era, multiple market dominant products did not recover their attributable costs. Moreover, the Periodicals class has not covered its attributable costs since the enactment of the PAEA. In this section, the Commission discusses these issues and proposes a solution to put the Postal Service on the path to having fully compensatory products and classes.

2. Non-Compensatory Products

a. Introduction

Non-compensatory products are those products for which attributable costs exceed revenue. In the FY 2016 ACD, the Commission identified 10 non-compensatory products: (1) In-County Periodicals; (2) Outside County Periodicals; (3) USPS Marketing Mail Flats (formerly called Standard Mail Flats); (4) USPS Marketing Mail Parcels (formerly called Standard Mail Parcels); (5) Stamp Fulfillment Services; (6) Money Orders; (7) Collect on Delivery; (8) Stamped Envelopes; (9) Inbound Letter Post;[86] and (10) Media Mail/Library Mail. *See* FY 2016 ACD at 42–71. Table III–2 below shows the percentage of total attributable costs recovered by each of these products respectively (*i.e.,* their ''cost coverage'').

TABLE III–2—NON-COMPENSATORY PRODUCTS IN FY 2016

Classes: Products	FY 2016 cost coverage (%)
Periodicals: In-County	70.0
Periodicals: Outside County	73.5
USPS Marketing Mail: Flats	79.4
USPS Marketing Mail: Parcels	64.6
Special Services: Stamp Fulfillment Services	87.3
Special Services: Money Orders	91.1
Special Services: Collect on Delivery	41.1
Special Services: Stamped Envelopes	92.3
First-Class Mail: Inbound Letter Post	66.4
Package Services: Media Mail/Library Mail	75.2

SOURCE: FY 2016 ACD at 42–71; Docket No. ACR2016, Library Reference PRC–LR–ACR2016/5, March 28, 2017.

With the exception of the two Periodicals products—In-County Periodicals and Outside County Periodicals, which will be addressed subsequently in this Order—all of these non-compensatory products are included within classes of mail for which the overall class revenue exceeds overall class attributable cost. Products such as USPS Marketing Mail Flats, Stamp Fulfillment Services,[87] and Media Mail/Library Mail have historically failed to cover their attributable costs. *See id.* at 48, 60, 70. Other products, such as Money Orders have only recently become non-compensatory. *See id.* at 60–62.

In Order No. 4257, the Commission found that non-compensatory products are not reasonably or efficiently priced and may threaten the financial integrity of the Postal Service because revenue from these products fails to cover costs. *See* Order No. 4257 at 235, 139–42. Accordingly, the Commission proposes modifications to the system of ratemaking that will require price increases to improve the cost coverage for non-compensatory products.

b. Comments

The primary commenter with regard to non-compensatory products was the Postal Service. The Postal Service comments that the price cap inhibits its ability to make rational and efficient pricing decisions. Postal Service Comments at 131. The Postal Service uses the USPS Marketing Mail Flats product as an example. Cost coverage for this product has declined since passage of the PAEA. *Id.* at 134. The Postal Service asserts that while it has the ability to rebalance rates among products within the USPS Marketing Mail class in order to improve USPS Marketing Mail Flats' cost coverage, and it has done so to some extent, volumes for this product are in ''autonomous decline'' relative to other products in the USPS Marketing Mail class. *Id.* As a result, the Postal Service maintains that if it were to maximize price increases for USPS Marketing Mail Flats, any temporary increase in unit contribution might be offset if volume declines as a result of the price increases led to decreased overall contribution. *Id.* at 134–35. Meanwhile, according to the Postal Service, it would have foregone the opportunity to increase contribution from USPS Marketing Mail products with stable or increasing volumes. *Id.* at 135. The Postal Service takes the position that in a time of limited class-level price increase authority, it would be imprudent for it to pursue such a strategy. *Id.* The Postal Service urges the Commission to remove the price cap from the ratemaking system altogether, stating that the price cap has failed to meet most of the PAEA's objectives. *Id.* at 138.

c. Proposed Commission Solution

The Commission proposes to define ''non-compensatory products'' as products for which attributable cost exceeds revenue, as determined by the most recent ACD. As a starting point, the Commission proposes to prohibit the reduction of rates for non-compensatory products.

Also, for non-compensatory products in classes for which attributable costs for the entire class do not exceed revenue for the class, the Commission proposes to require minimum product-level price increases. Under the

[86] The Commission also found that other market dominant International Mail products did not cover costs in FY 2016: Three agreements within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators product and Inbound Registered Mail (within the International Ancillary Services product). *See* FY 2016 ACD at 63.

[87] The Stamp Fulfillment Services product provides for the fulfillment of stamp orders placed by mail, phone, fax, or online to the Stamp Fulfillment Services Center in Kansas City, Missouri. *See* FY 2016 ACD at 59.

Commission's proposal, whenever the Postal Service files a request for the Commission to review a notice of rate adjustment applicable to any class of mail, it will be required to propose to increase the rate for any non-compensatory product within that class by a minimum of 2 percentage points above the percentage increase for the class. This proposed rate increase does not create additional rate authority for the entire class. The proposed rate increase must comply with the other rate setting criteria appearing in the proposed rules accompanying this Order: CPI (proposed subpart C), supplemental (proposed subpart D), performance-based (proposed subpart E), and banked rate authority (proposed subpart G). After addressing any non-compensatory product(s), the Postal Service will retain pricing flexibility with regard to use of the remaining authority under the price cap for that class.

d. Commission Analysis of Alternatives

The Commission recognizes that the proposed solution places some limitation on the Postal Service's pricing flexibility. Consistent with the analysis in Order No. 4257, the solution proposed by the Commission allows for continued achievement of Objective 4 (allowing the Postal Service pricing flexibility) while making changes necessary to achieve Objective 1 (maximize incentives to increase pricing efficiency) and Objective 8 (establishing and maintaining reasonable rates). *See* 39 U.S.C. 3622(b)(1), (4), and (8).

The Commission's proposal does not mandate immediate full cost coverage for non-compensatory products, but it does seek to narrow the coverage gap and move non-compensatory products toward full cost coverage over time. Given the substantial increase needed for some non-compensatory products to cover their attributable costs, a 2-percentage point rate increase represents an appropriate mechanism for improving cost coverage while simultaneously maintaining stability and predictability in rates, as required by Objective 2. *See* 39 U.S.C. 3622(b)(2). Both the Postal Service and the mailing community will have notice, through the ACD, of the products that are non-compensatory and thus subject to an additional 2-percentage point rate increase.

The purpose of the pricing requirements for non-compensatory products is for the cost coverage of these products to move toward, and eventually above, 100 percent. The Commission performed a scenario-based analysis to determine the appropriate level of additional price increases for non-compensatory products. In Table III–3, the most recent CPI–U projections were combined with unit attributable cost growth rates from the most recent 8 years to estimate changes in cost coverage assuming that prices are increased by 1 percent, 2 percent, or 3 percent above the average rate increase for the class.[88] The CPI–U change is projected to be 2.05 percent for the next 5 years, while the change in the unit attributable cost of USPS Marketing Mail Flats was 2.6 percent per year for the last 8 years. Table III–3 assumes that the next 5 years will experience the same unit attributable cost change and that CPI–U will conform to projections. Each year, in addition to the CPI–U rate authority, the 2 percent of supplemental authority and either 1 percent, 2 percent, or 3 percent of additional rate authority is applied to estimate the increase in revenue. The following table details the resulting estimated cost coverages for USPS Marketing Mail Flats.

Table III-3
USPS Marketing Mail Flats Cost Coverage Scenarios

	1.0%		2.0%		3.0%	
Year	Coverage	Increase	Coverage	Increase	Coverage	Increase
Year 0	77.3%	0.0%	77.3%	0.0%	77.3%	0.0%
Year 1	79.1%	5.05%	79.9%	6.05%	80.6%	7.05%
Year 2	81.0%	5.05%	82.6%	6.05%	84.1%	7.05%
Year 3	82.9%	5.05%	85.3%	6.05%	87.8%	7.05%
Year 4	84.9%	5.05%	88.2%	6.05%	91.6%	7.05%
Year 5	86.9%	5.05%	91.2%	6.05%	95.5%	7.05%
Total		27.93%		34.14%		40.58%

In the scenarios detailed in Table III–3, USPS Marketing Mail Flats would experience 5-year cumulative price increases of between 27.93 and 40.58 percent.[89] Even in the scenario where prices are increased 7.05 percent per year the estimated cost coverage remains below 100 percent 5 years after implementation. As explained above, the prior table contains the assumption, based on historical data, that unit attributable costs will continue to increase at a higher rate than the CPI–U. The Commission changes this assumption in its calculation in Table III–4 below.

[88] The unit attributable costs by product are only available for the most recent 8 years due to the product list change associated with the PAEA and concurrent changes to cost reporting. The Postal Service did not report the unit attributable costs for each and every PAEA product until FY 2008. *See* Docket No. ACR2008 Library Reference USPS–LR–FY08–1.

[89] The 5-year cumulative increases are greater than the sum of the annual increases due to the effects of compounding.

Table III-4
USPS Marketing Mail Flats Full Cost Coverage Scenario

	1.0%		2.0%		3.0%	
Year	Coverage	Increase	Coverage	Increase	Coverage	Increase
Year 0	78.5%	0.0%	78.5%	0.0%	78.5%	0.0%
Year 1	81.6%	5.05%	82.4%	6.05%	83.2%	7.05%
Year 2	84.9%	5.05%	86.5%	6.05%	88.2%	7.05%
Year 3	88.3%	5.05%	90.9%	6.05%	93.5%	7.05%
Year 4	91.9%	5.05%	95.4%	6.05%	99.1%	7.05%
Year 5	95.5%	5.05%	100.2%	6.05%	105.0%	7.05%
Total		27.93%		34.14%		40.58%

In Table III–4, unit attributable costs are assumed to increase at 1.0 percent per year, or 1.6 percent below the historical average. If the Postal Service increases prices at 2 percent above the class average and reduces the growth in unit attributable cost, the cost coverage exceeds 100 percent after 5 years.

The Commission determines that requiring the Postal Service to increase the rate for any non-compensatory product by a minimum of 2 percentage points above the percentage increase for the class is appropriate because it balances the need for mailers to pay reasonable rates with the need for the Postal Service to achieve cost reductions.

e. Proposed Regulatory Changes

Proposed subpart F is added to 39 CFR part 3010 to address the issue of non-compensatory products and classes. Proposed § 3010.200 defines non-compensatory products as those for which the attributable costs for the product exceeded the product's revenue as determined by the most recent ACD.

Proposed § 3010.201 sets forth the rate setting criteria for non-compensatory products in classes for which overall class revenue exceeds overall class attributable cost.

Existing § 3010.20(e) is replaced by proposed §§ 3010.127(b) and 3010.129(g), which prohibit the reduction of rates of non-compensatory products.

f. Conclusion

The proposed rate setting criteria applicable to non-compensatory products is necessary to achieve Objectives 1 and 8. Products that do not generate revenues that cover their attributable costs contribute to the system's inability to achieve reasonable and efficient prices. Gradual above-average increases to the prices of non-compensatory products will bring those products to full cost coverage over time and thereby achieve reasonable and efficient rates as envisioned by the PAEA. This proposed approach will also allow for continued pricing flexibility and consistent with the Commission's evaluation of the ratemaking system in Order No. 4257.

3. Non-Compensatory Classes

a. Introduction

The Periodicals class has not covered its attributable costs since the enactment of the PAEA. FY 2016 ACD at 42. This is because the Periodicals class consists of only two products—In-County Periodicals and Outside County Periodicals—and each of those products is non-compensatory. *Id.* at 45. Over the course of the PAEA era, cost coverage for the Periodicals class has generally declined—from 83.0 percent in FY 2007 to 73.7 percent in FY 2016. *Id.* at 42. The insufficient cost coverage for the Periodicals class has resulted in a negative contribution of more than $5 billion since FY 2007. *Id.* at 44. Also, the Package Services class contribution was negative from FY 2009 through FY 2012. Order No. 4257 at 232–33. As a class, Package Services did not cover its attributable costs for 4 years during the PAEA era. *Id.* Non-compensatory products are not reasonably or efficiently priced and may threaten the financial integrity of the Postal Service because revenue from these products fails to cover costs. *See id.* 234–35, 139–142. Non-compensatory classes are non-compensatory because they are dominated by non-compensatory products.

Non-compensatory classes create unique problems in a ratemaking system that is limited to inflation-based increases applied at the class level. 39 U.S.C. 3622(d)(3)(A). Unless the Postal Service is able to constrain class costs to below the level of inflation, the coverage for the class cannot improve.

If a non-compensatory product forms part of a class that is compensatory on the whole, then the rates for the non-compensatory product can be increased by a greater percentage than the compensatory products in that class while keeping the overall class increase within the price cap.

But if, as with Periodicals, the entire class is non-compensatory, there is no opportunity to rebalance rates among products, because increasing the rates for one product generally requires offsetting decreases to the rates for other products, and there are no products with positive cost coverage against which such offsets can be made.[90] In Order No. 4257, the Commission stated that non-compensatory mail classes threaten the financial integrity of the Postal Service. Order No. 4257 at 274. Accordingly, the Commission proposes modifications to the system of ratemaking that will grant additional rate authority to non-compensatory classes of mail in order to achieve the same goal articulated for non-compensatory products, *i.e.,* to improve the cost coverage for such classes and to put the Postal Service on the path to having fully compensatory classes.

b. Comments

Several commenters proposed solutions for non-compensatory mail classes.

The Postal Service asserts that the cost-coverage problems with regard to the Periodicals class are the result of a

[90] As the Public Representative recognizes, the only exception to this general rule occurs when changes in the CPI–U index result in an increase in the cap for the class. PR Comments at 23. However, for the Periodicals class, in particular, these relatively small increases in the cap do not provide enough headroom for price increases that could provide meaningful improvement to the overall cost coverage for the class. *Id.*

complex set of factors, including the fact that the Periodicals class was already non-compensatory at the advent of the PAEA era when the price cap was imposed, mail volumes and density with regard to Periodicals is declining, and changes in mailer behavior have lowered unit revenue (such as reducing the weight and advertising content of mailings). Postal Service Comments at 132. The Postal Service asserts that the price cap has failed to supply pricing tools necessary for the Postal Service to face these challenges. *Id.* at 136. Because the price cap is imposed at the class level, the Postal Service maintains that it does not allow for the correction of an entire class which is non-compensatory, such as Periodicals. *Id.* Therefore, the Postal Service urges the Commission to remove the price cap system altogether. *Id.* at 138.

The Public Representative recommends that the Commission ''[a]djust the price cap for Periodicals to give the Postal Service the opportunity to attempt improvements in cost coverages.'' PR Comments at 33. The Public Representative states that raising the price cap for Periodicals would provide the Postal Service ''the pricing flexibility that Objective 4 [of the PAEA] was intended to achieve,'' without relieving the Postal Service of its ''obligation . . . to reduce costs or to increase efficiency.'' *Id.* at 56–57 (citing 39 U.S.C. 3622(b)(4)).

NNA states that in lieu of ''punitive'' price increases for the non-compensatory Periodicals class, both the In-County and Outside County Periodicals mail products could be made more efficient. NNA Comments at 24–25. NNA proposes specific revision to the worksharing price structure. *Id.* NNA opines that better data with regard to Periodicals are necessary before making any sweeping rate changes. *Id.* at 29. NNA does not recommend any changes to the price cap for non-compensatory mail classes such as Periodicals.

PSA maintains that the Periodicals class is being subsidized by other mail classes, resulting in rates which are not just and reasonable. PSA Comments at 4–5.

SIIA maintains that ''any efforts to enhance pricing flexibility should take into consideration the impact this has on mailers, particularly if the flexibility is not strategically applied to accommodate the goals of rate predictability and long-term, sustainable cost-coverage objectives . . . .'' SIIA Comments at 8.

ANM *et al.* state that ''[c]reating a blanket exception to the CPI cap for classes of mail or products merely because they reportedly fail to cover attributable costs would be undesirable and unfair . . . .'' ANM *et al.* Comments at 75. ANM *et al.* maintain that ''the inability of certain products to recover their attributable costs is not evidence that the current system is failing to properly apportion costs . . . [because] the 'underwater' condition of the [Periodicals] class is a function of excessive costs, not overly-constrained prices . . . .'' *Id.* at 76. According to ANM *et al.,* ''[n]o system of ratemaking can entirely protect against poor business decisions . . . .'' *Id.* Moreover, ANM *et al.* urge the Commission to ''recognize that the 'underwater' products and other products with higher coverage ratios are often complementary goods.'' *Id.* at 77. By way of example, ANM *et al.* state that ''subscriptions to periodicals mailed at Periodicals Mail rates generate large volumes of allied mailings (*e.g.,* acknowledgments, renewal notices, invoices, and solicitations) that have much higher reported coverage ratios . . . [and which] offset[ ] most of the reported shortfall from Periodicals Mail.'' *Id.*

c. Proposed Commission Solution

Because improved cost coverage for products within non-compensatory classes cannot be attained by rebalancing rates among products within such classes, the Commission proposes a solution that expands pricing authority for non-compensatory classes in order to allow for additional product-level rate increases within such classes. If the attributable cost for an entire class exceeds revenue for that class, the Commission proposes to provide 2 percentage points of additional rate authority for the class. Under the Commission's proposal, as part of the first generally applicable rate adjustment in a calendar year, the Postal Service, when seeking to raise rates for a non-compensatory class, must use all available rate authority for non-compensatory classes. This includes all CPI (proposed subpart C of 39 CFR part 3010), supplemental (proposed subpart D of 39 CFR part 3010), performance-based (proposed subpart E of 39 CFR part 3010), and banked rate authority up to the 2-percent maximum (proposed subpart G of 39 CFR part 3010), *plus* the additional 2 percentage points provided for non-compensatory classes (proposed subpart F of 39 CFR part 3010). This proposal applies only if the Postal Service chooses to adjust rates for the non-compensatory class.

If there are any products within a non-compensatory class for which product-level revenue exceeds the product-level attributable cost, then prices for such products may only be increased up to the amount of the class average. Moreover, the Commission proposes to prohibit the reduction of rates for non-compensatory products.

d. Commission Analysis of Alternatives

Although the existing ratemaking system limits the Postal Service's pricing flexibility and ability to make efficient pricing decisions with respect to non-compensatory classes, removal of the price cap is not an appropriate solution. To create pricing predictability and stability, the ratemaking system must contain a mechanism that limits the magnitude of price adjustments. *See* Order No. 4257 at 103. Nevertheless, the Commission finds that to make no change to the price cap structure for the non-compensatory classes would continue the trend of negative class contribution and continue to hinder the achievement of Objective 1 (maximize incentives to increase pricing efficiency), Objective 5 (assure adequate revenues, including retained earnings, to maintain financial stability), and Objective 8 (establishing and maintaining reasonable rates). *See* 39 U.S.C. 3622(b)(1), (5), and (8).

The Commission's proposed solution does not mandate immediate full cost coverage for non-compensatory classes, but it does seek to narrow the coverage gap and move prices towards full cost coverage over time. Further, given the substantial increase needed for the Periodicals class to cover its attributable cost, the proposed 2-percentage point increase represents an appropriate mechanism for improving cost coverage while simultaneously maintaining stability and predictability in rates, as required by Objective 2. *See* 39 U.S.C. 3622(b)(2). Both the Postal Service and the mailing community will know, through the ACD, which classes are non-compensatory and thus subject to a 2-percentage point rate increase in class-level rate authority.

The Commission determines that a requirement that the Postal Service increase the rates for any non-compensatory class by an additional 2 percentage points is appropriate because it balances the need for mailers to pay a more reasonable rate with the need for the Postal Service to achieve cost reductions and improvements in operational efficiency.

e. Proposed Regulatory Changes

Proposed subpart F is added to 39 CFR part 3010 to address the issue of non-compensatory products and classes. Proposed § 3010.200 defines non-compensatory classes of mail as those for which attributable costs for the class

exceed revenue derived from the class as determined by the most recent ACD.

Proposed § 3010.202(a) provides for 2 percentage points of additional rate authority for a non-compensatory class. Proposed § 3010.202(b) sets forth the rate setting criteria that applies if the Postal Service chooses to adjust rates for a non-compensatory class.

Proposed § 3010.202(c) describes the requirements applicable to the availability, calculation, and use of the 2 percentage points of additional rate authority for a non-compensatory class.

Existing § 3010.20(e) is replaced by proposed §§ 3010.127(b) and 3010.129(g), which prohibit the reduction of rates of non-compensatory products.

f. Conclusion

The proposed increase in class-level rate authority applicable to non-compensatory classes is necessary to achieve Objectives 1 and 8. Non-compensatory classes are dominated by non-compensatory products. For these classes to generate revenues that cover their attributable costs, the products within them must have prices that are reasonable and efficient prices. However, non-compensatory classes could not be addressed with the same solution as for non-compensatory products in compensatory classes because the price cap is applied at the class level. An increase in the class-level rate authority for non-compensatory classes will gradually move the prices of non-compensatory products within non-compensatory classes to the cost coverage over time, thereby achieving reasonable and efficient rates as envisioned by the PAEA. This proposed approach is necessary to achieve Objectives 1 and 8 and is consistent with the Commission's analysis of the other objectives in Order No. 4257.

F. Workshare Discounts

1. Introduction

The PAEA aimed to allow the Postal Service pricing flexibility while increasing pricing efficiency. *See* Order No. 4257 at 48, 144–45. Pricing efficiency is required by Objective 1's directive to ''maximize incentives to reduce costs and increase efficiency.'' *Id.* at 130 (quoting 39 U.S.C. 3622(b)(1)). The ratemaking system achieves pricing efficiency when prices adhere as closely as practicable to ECP. *Id.* at 136. Under ECP, price differences should equal as closely as practicable cost differences. *See id.* at 130–31. Although the Postal Service had the ability to adhere to ECP, even under a price cap, the Commission's analysis demonstrates that during the PAEA era, the Postal Service chose not to price according to ECP. *Id.* at 139. Specifically, the Postal Service failed to set most workshare discounts in accordance with ECP during the 10 years following enactment of the PAEA. *Id.* at 136–38. In the remainder of this section, the Commission summarizes the existing requirements relating to workshare discounts and discusses how the existing ratemaking system did not produce workshare discounts that adhere to ECP.

Workshare discounts are rate discounts that the Postal Service provides to mailers for presorting, prebarcoding, handling, or transporting mail. 39 U.S.C. 3622(e)(1). Workshare discounts reduce prices for mailpieces that are prepared or inducted in a manner that allows the Postal Service to avoid certain activities that it would have otherwise performed. The Commission must ''ensure that [workshare] discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity'' (avoided cost) unless certain exceptions are met. 39 U.S.C. 3622(e)(2).

The Commission reviews workshare discounts for compliance with section 3622(e) both before and after their implementation. The Commission's pre-implementation review of proposed workshare discounts occurs during rate adjustment proceedings. Existing § 3010.12(b)(6) requires the Postal Service to justify that a statutory exception applies to any proposed workshare discount that exceeds its avoided costs. Under this existing rule, the Postal Service must also identify and explain discounts that are set substantially below avoided costs, and explain any relationship between discounts that are above and those that are below avoided costs.

The Commission completes its post-implementation review for compliance with 39 U.S.C. 3622(e) in the ACD at the end of each fiscal year. Existing § 3050.20(c) requires the Postal Service's ACR to address discounts greater than avoided costs. Existing § 3050.24 requires the Postal Service to file documentation that supports its avoided cost estimates.

In both pre- and post-implementation reviews, the Commission ascertains compliance with 39 U.S.C. 3622(e) by evaluating the workshare discount's passthrough.[91] When a workshare discount equals avoided cost, the passthrough equals 100 percent. If a workshare discount is less than the avoided cost, then the passthrough is below 100 percent. Conversely, if a workshare discount is greater than the avoided cost, then the passthrough is above 100 percent.

To adhere to ECP, workshare discounts should be set equal, on a per-unit basis, to the costs avoided by the Postal Service when the mailer performs the workshare activity. Order No. 4257 at 131. Using ECP to set workshare discounts would produce passthroughs equal to 100 percent. *Id.* However, most workshare discounts during the PAEA era have been set substantially above or substantially below 100 percent. *Id.* at 136–38. The Postal Service's failure to set workshare discounts in accordance with ECP demonstrates that the existing ratemaking system has not increased pricing efficiency, as intended by the PAEA. *Id.* at 145.

Workshare discounts set substantially above or substantially below avoided costs are problematic because they send inefficient price signals to mailers and therefore reduce productive efficiency in the postal sector.[92] Specifically, inefficient pricing signals disrupt two sets of incentives—the incentives to the Postal Service to right-size its network and the incentives to mailers to enter volume that best conforms to that network. *See id.* at 216–19. This disruption may take volume away from the least-cost producer, which may result in less efficient volume and decreased revenue for the Postal Service.[93]

[91] Passthroughs represent the relationship between the amount of the workshare discount and the avoided cost as a percentage. A workshare discount's passthrough percentage is determined by dividing the workshare discount by costs avoided and expressing the result as a percentage. For example, if the Postal Service offers a discount of $0.05 for mailers to presort mailpieces and this presorting permits the Postal Service to avoid $0.04 in cost, then the worksharing passthrough is 125 percent (0.05/0.04 = 1.25 = 125 percent).

[92] *See, e.g.,* FY 2016 ACD at 1 (''Workshare discounts that exceed avoided costs adversely affect Postal Service finances because they incentivize mailers to perform worksharing that the Postal Service could have done on a less costly basis.''); Docket No. ACR2009, Annual Compliance Determination, March 29, 2010, at 76 (observing that ''the combination of low and differential passthroughs [for Periodicals] may send conflicting price signals to mailers and prevent them from entering mail in a way that reduces the end-to-end cost''); Docket No. R2012–3, Order No. 987, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 22, 2011, at 12–13 (expressing concern that setting passthroughs inefficiently, by pricing to excess capacity, may ultimately send inefficient price signals and harm efficient Postal Service operations).

[93] ''[A]n integrated mail service will be produced most efficiently if its various components are provided by the least-cost producer.'' Order No. 4257 at 131 n.231 (quoting Docket No. RM2010–13, Order No. 1320, Order Resolving Technical Issues

Continued

2. Comments

Several commenters recommend that the Commission require all workshare discount passthroughs to be set at or near 100 percent. Other commenters recommend retaining the existing requirements or suggest changes to accepted analytical principles.

a. Comments in Support of Setting all Workshare Discount Passthroughs Closer to 100 Percent

Several commenters recommend that the Commission require the Postal Service to set workshare discounts at or near 100 percent of avoided costs.

Pitney Bowes comments extensively on this issue and favors the Commission establishing a soft floor for workshare discounts to provide additional incentives for the Postal Service to reduce costs and increase efficiency. Pitney Bowes Comments at 3. Specifically, Pitney Bowes recommends that the soft floor require the Postal Service to set workshare discounts at, or as close as possible to, avoided costs subject to clearly defined and limited exceptions. *Id.* It asserts that a soft floor would promote productive efficiency by incentivizing the least cost provider to perform the work. *Id.* at 19. It contends that a soft floor would ensure that mailers and mail service providers were fully compensated for the work they perform and send more efficient pricing signals that will help grow mail and reduce costs. *Id.* at 13–14. It maintains that establishing a soft floor for workshare discounts would help achieve several objectives and factors appearing in 39 U.S.C. 3622(b) and (c) without unduly conflicting with or affecting others. *Id.* at 16–22. It notes that the Commission made a similar recommendation in its most recent Section 701 Report. *Id.* at 4, 10, 20. In support of Pitney Bowes' proposal, Professor John C. Panzar recommends that the Commission require the Postal Service to adhere to ECP by setting workshare discounts equal to, or as close as practicable to, 100 percent of avoided costs. Panzar Statement at 14. He asserts that doing so would promote efficiency and just and reasonable rates without unduly limiting the Postal Service's pricing flexibility. *Id.* at 1, 2, 14.

Other commenters also support the Commission tightening requirements for the Postal Service to set workshare discounts at or near 100 percent of avoided costs. PSA also favors establishing a soft floor. PSA Comments at 5. MMA *et al.* suggest that the Commission modify existing § 3010.2(b)(6) to require the Postal Service to pass through 100 percent of costs avoided unless a sound justification exists for not doing so. MMA *et al.* Comments at 70–72. They contend that this rule change would be consistent with ECP and would maximize efficiency and reduce costs. *Id.* at 71–72. Similarly, ABA asserts that setting workshare discounts at 100 percent of avoided costs promotes efficiency and a more just and reasonable rate schedule without unduly constraining the Postal Service's pricing flexibility. ABA Comments at 11.

Chairman of the House Oversight and Government Reform Committee Jason Chaffetz and Chairman of the Government Operations Subcommittee Mark Meadows comment that both the Postal Service and the mailing industry would benefit by having workshare discounts set equal to avoided costs. Chairman Chaffetz and Chairman Meadows Comments at 2. They assert that setting discounts below avoided costs ''discourages the mailing industry from performing work more cost-effectively than the Postal Service.'' *Id.* LSC also recommends moving many existing workshare discounts as close to 100 percent passthrough as is feasible to incentivize mailer participation and reduce the Postal Service's costs. LSC Comments at 1. ANM *et al.* recommend setting workshare discounts at 100 percent of avoided costs to encourage more co-mailing and co-binding, which would help enable Periodicals and flat-shaped USPS Marketing Mail to cover their attributable costs. ANM *et al.* Comments at 11–12, 56, 82.

b. Comments in Support of Retaining the Existing Rules

Other commenters recommend against changing workshare discount requirements in this proceeding. The Postal Service asserts that there is inadequate economic justification to base workshare discounts solely on ECP cost avoidances. Postal Service Comments at 232. It contends that ''[w]hile ECP may advance the achievement of Objective 1 in some respects (as well as take into account Factor 5),'' requiring all workshare discounts to fully conform to ECP would not appropriately balance the objectives because it would ''largely vitiate the Postal Service's pricing flexibility.'' *Id.* at 230, 232. Similarly, GCA states that ''those objectives and factors [in section 3622(b) and (c)] would be best served by preserving the Commission's treatment of worksharing.'' GCA Comments at 50.

c. Comments Suggesting Changes to Accepted Analytical Principles Related to Workshare Discounts

Some commenters suggest changes to accepted analytical principles relating to workshare discounts. MMA *et al.* recommend applying workshare discounts only within a product—specifically to sever the link between First-Class Mail Single-Piece Letters/Postcards and workshare discounts for First-Class Mail Presorted Letters/Postcards. MMA *et al.* Comments at 66–70. GCA recommends that the Commission consider using a 3-year moving average of cost avoidances to smooth out cost fluctuations. GCA Comments at 15. Expressing concern with the accuracy of the accepted postal cost accounting system, ACMA recommends considering the volatility of passthroughs when determining how close to 100 percent a workshare discount is set. ACMA Comments at 2–3.

3. Proposed Commission Solution

The Commission proposes rules to phase out two practices that harm pricing efficiency: Workshare discounts set substantially below avoided costs and workshare discounts set substantially above avoided costs.

Therefore, the proposed rules establish bands—ranges with upper and lower limits—for workshare discount passthroughs. A passthrough must fall within the applicable band to be compliant. All passthroughs that fall outside of the applicable band would be noncompliant, subject to a 3-year grace period commencing from the effective date of these rules or when a new workshare discount is established.

The proposed rules promote ECP and help the ratemaking system to maximize incentives to increase efficiency by incentivizing the Postal Service to set workshare discount passthroughs closer to 100 percent in accordance with Objective 1. *See* 39 U.S.C. 3622(b)(1). Also, consistent with Objective 4 (to allow pricing flexibility), the bands allow the Postal Service discretion to set passthroughs within the applicable band. *See* 39 U.S.C. 3622(b)(4). The bands also accommodate the concerns related to excessive workshare discounts referenced in the PAEA. *See* 39 U.S.C. 3622(e)(2). As described below, the proposed upper and lower limits applicable to each band provide a sufficient range for compliant passthroughs to encompass most fluctuations in cost avoidance and mitigate rate shock.

The Commission proposes two bands—one for Periodicals and one for

Concerning the Calculation of Workshare Discounts, April 20, 2012, at 3).

all other classes. For Periodicals, passthroughs must range between 75 percent and 125 percent. For all other classes, passthroughs must range between 85 percent and 115 percent. The wider band for Periodicals takes into account the wider variance observed in passthroughs for Periodicals and ''the educational, cultural, scientific, or informational value'' of those mailpieces. *See* 39 U.S.C. 3622(c)(11) and (e)(2)(C).

The proposed ranges for each band are supported by an empirical analysis. Comparing the passthroughs in the first proceeding (Docket No. R2008–1) and in the most recent proceeding (Docket No. R2017–1) to adjust rates for all classes in the PAEA era demonstrates how passthroughs have become increasingly inconsistent with ECP over the PAEA era, especially for Periodicals.

With respect to passthroughs for Periodicals, in Docket No. R2008–1, 14 of 27 conformed to the proposed Periodicals band, ranging from 75 to 125 percent. Eleven of 27 Periodicals passthroughs set in that proceeding fell below the proposed band, and 2 of 27 were above the proposed band. By contrast, in Docket No. R2017–1, most passthroughs for Periodicals did not conform to the proposed band. In Docket No. R2017–1, 7 of 28 of the passthroughs for Periodicals conformed to the proposed band. Fourteen of 28 of the Periodicals passthroughs set in Docket No. R2017–1 fell below the proposed band and 7 of 28 were above the proposed band.

With respect to passthroughs for all other classes with workshare discounts—First-Class Mail, USPS Marketing Mail, and Package Services—in Docket No. R2008–1, 46 of 69 passthroughs conformed to the proposed band, ranging from 85 to 115 percent. The passthroughs outside of the proposed band were nearly evenly distributed. Eleven of 69 of the passthroughs fell below the proposed band, and 12 of 69 were above the proposed band. By contrast, in Docket No. R2017–1, most passthroughs for First-Class Mail, USPS Marketing Mail, and Package Services did not conform to the proposed band. In Docket No. R2017–1, 20 of 75 these passthroughs conformed to the proposed band. Thirty-seven of 75 of the passthroughs fell below the proposed band, and 18 of 75 were above the proposed band.

Comparing the passthroughs set in these two proceedings also demonstrates that more passthroughs have moved below 100 percent. The median passthrough for Periodicals declined from 89 percent in Docket No. R2008–1 to 75 percent in Docket No. R2017–1. The median passthrough for all other classes declined from 97 percent in Docket No. R2008–1 to 85 percent in Docket No. R2017–1.

Because most workshare discount passthroughs fell within the proposed bands during the first rate proceeding under the PAEA, phasing out passthroughs that fall outside the range for each proposed band over a limited period of time appears to be a reasonable and achievable method to promote ECP. Moreover, based on an analysis of the percentage change in cost avoidances between ACDs, the Commission found that a majority of these changes fell within the proposed bands. This confirms that the ranges for the proposed bands are sufficient to encompass most fluctuations in cost avoidance. Therefore, the Commission proposes the bands with ranges of plus or minus 25 percent for Periodicals and plus or minus 15 percent for all other classes, subject to a 3-year grace period.

The 3-year grace period is consistent with the PAEA's direction to phase out excessive workshare discounts over a limited period of time. *See* 39 U.S.C. 3622(e)(2). Based on an analysis of current workshare discounts and projections of potential outcomes, the Commission determines that 3 years is an appropriate amount of time for the Postal Service to phase out workshare discounts set substantially above or substantially below avoided costs without creating rate shock.

For all existing passthroughs, the Postal Service will have 3 years after the proposed rules go into effect to adjust the passthroughs to comply with the applicable band. If the Postal Service establishes a new workshare discount after the proposed rules become effective that does not comply with the applicable band, the Postal Service will have 3 years after establishing the new workshare discount to adjust the passthrough to comply with the applicable band.[94] A grace period for workshare discounts established after the proposed rules go into effect is necessary because new workshare discounts would be based on estimated avoided cost data that will become more reliable in later years.

For both current and new workshare discounts, the proposed rules require the Postal Service to submit a plan to bring passthroughs into compliance with the applicable band in each rate adjustment filed during the grace period. After the grace period expires, any workshare discounts outside the applicable band would be noncompliant.

4. Commission Analysis of Alternatives

Based on a determination that the existing ratemaking system did not achieve pricing efficiency, the Commission declines to retain the existing rules relating to workshare discounts.

The Commission also declines to require that all passthroughs be set at exactly 100 percent. Although such a rule would be consistent with ECP, the proposed rules incorporate the concerns of commenters regarding fluctuations in cost avoidance and continue to allow the Postal Service some pricing flexibility with regard to workshare discounts by establishing bands of compliant passthroughs. Establishing bands (plus or minus 25 percent for Periodicals and plus or minus 15 percent for all other classes) incorporates the suggestions of commenters to incentivize the Postal Service to set workshare discounts closer to 100 percent of avoided costs. The lower limits applicable to the proposed bands (75 percent for Periodicals and 85 percent for all other classes) incorporate the suggestions that passthroughs adhere to a ''soft floor.''

The suggested changes to accepted analytical principles related to workshare discounts fall outside of the scope of this proceeding. This proceeding focuses on proposing rules as necessary for the ratemaking system to achieve the objectives in 39 U.S.C. 3622(b). The standard for changing accepted analytical principles differs. Accepted analytical principles may be changed to improve the quality, accuracy, or completeness of the Postal Service data or analysis underlying the ACR. 39 CFR 3050.11(a). Any interested person may petition the Commission to initiate a proceeding to consider changing accepted analytical principles. *Id.* The proponent of the change must identify the accepted analytical principal for review, explain any perceived deficiencies, and suggest remedies. 39 CFR 3050.11(b).

The Commission declines to adopt GCA's suggestion to use a 3-year moving average of cost avoidances to smooth out cost fluctuations. This approach would place too much emphasis on avoiding rate shock while failing to produce workshare discounts that are calculated based on current prices and costs. Instead, the Commission's approach proposed in this proceeding—bands for passthrough compliance after a 3-year grace period—will encompass most cost avoidance fluctuations and

[94] The Postal Service must also continue to submit a detailed report to the Commission as required by 39 U.S.C. 3622(e)(4).

encourage the improvement of costing data.

5. Proposed Regulatory Changes

The Commission has considered the comments and the foregoing analysis in developing proposed subpart I to 39 CFR part 3010. Proposed § 3010.260 explains the applicability of proposed subpart I. Proposed § 3010.261 sets forth the upper and lower limits for passthroughs applicable to each class. Proposed § 3010.262 provides for a 3-year grace period to bring noncompliant passthroughs (existing and new) into compliance with the applicable band. Proposed § 3010.262 also requires the Postal Service to submit a plan to bring the noncompliant passthroughs into compliance with the applicable band. To conform with this proposed change, the Commission proposes to delete existing § 3010.12(b)(6). To reflect the deletion of § 3010.12(b)(6), the Commission also proposes a conforming deletion in § 3050.20(c).

Proposed § 3010.123(f) retains existing § 3010.12(b)(5)'s requirements for the schedule of workshare discounts. Proposed § 3010.123(g) retains existing § 3010.12(c)'s requirements pertaining to the contents of a Postal Service's request to review a notice of rate adjustment that establishes a new workshare discount.

6. Conclusion

The proposal to require that workshare discount passthroughs conform to the applicable bands, subject to a 3-year grace period, is necessary to achieve Objective 1. Workshare discounts set substantially above or below avoided costs send inefficient pricing signals and are inconsistent with ECP. Such discounts contribute to the system having not achieved efficient prices, which may have contributed to the Postal Service's poor financial health by disrupting incentives for the Postal Service to right size its network and for mailers to enter volume that best conforms to the network. Proposed subpart I requires the Postal Service to gradually phase out these problematic practices and set more efficient prices. This proposed approach will also allow for continued pricing flexibility for the Postal Service.

G. Procedural Improvements

1. Introduction

The Commission proposes two procedural changes to improve the ratemaking process relating to planned rate adjustments of general applicability. These proposed changes are within the scope of the Commission's general authority to revise its regulations. 39 U.S.C. 3622(a); 39 U.S.C. 503. These proposed procedural changes are consistent with the Commission's review in Order No. 4257 and take into account the comments received in this proceeding. Therefore, the Commission sees no detriment to proposing these procedural changes in this docket. First, the Commission proposes to improve the requirements relating to the schedule for regular and predictable rate adjustments. Second, the Commission proposes to lengthen the notice period for rate adjustments and make conforming adjustments to the timing of comments and the Commission's decision.

2. Schedule for Regular and Predictable Rate Adjustments

a. Introduction

In Order No. 4257, the Commission determined that the ratemaking system must have a mechanism that limits the magnitude of price adjustments and is sufficiently transparent to allow for mailers to understand how the limitation mechanism works. Order No. 4257 at 103. Existing § 3010.9(e) requires the schedule for regular and predictable rate adjustments to be updated ''[w]henever the Postal Service deems it appropriate.'' 39 CFR 3010.9(e). Over the past 10 years, the Postal Service has, for the most part, filed its notices of rate adjustments on predictable and consistent schedules. Order No. 4257 at 61, 143. Where it has deviated from those schedules, such deviations have been based on external factors from which a mailer or postal customer could reasonably forecast the potential effect on the timing of price adjustments. *Id.* In this section, the Commission considers potential procedural improvements.

b. Comments

In conjunction with its recommendation to eliminate the price cap, the Postal Service suggests that the Commission require the Postal Service to give mailers guidance regarding the timing and magnitude of rate increases at the class and product level, before filing a specific rate docket. Postal Service Comments at 14, 202. Under its proposed forward guidance regime, the Postal Service proposes to provide information in accordance with the following schedule:

TABLE III–5—PROPOSED POSTAL SERVICE SCHEDULE OF INFORMATION RELATING TO PLANNED RATE INCREASES

Stage	Months before implementation of rate increase	Information to be provided by the Postal Service
1	12	Planned target date of planned rate change.
2	9	Planned percentage change in rates by class.
3	6	Planned percentage change in rates by product and structural changes.
4	3	Notice of specific rates and structural changes.

Id. at 204–05. At stages 2 through 4, the Postal Service also proposes to address the prior information provided by either affirming or revising (and explaining the reason for any deviations). *Id.*

Other commenters did not put forth specific proposals concerning the schedule of rate adjustments. Generally, commenters discuss the business need to accurately budget for postage rate increases. For instance, Publishers Clearing House notes that it attempts to forecast postage increases to establish 3-year budget outlooks.[95] SMC observes that annual rate adjustments have created consistency in budget planning

[95] Joint Declarations, Declaration of Wendy Smith on Behalf of Publishers Clearing House, at 2.

for advertising mailers. SMC Comments at 7.

c. Proposed Commission Solution

The Commission proposes to enhance the schedule of regular and predictable rate adjustments. The Commission proposes to require the Postal Service to update the schedule at least once a year (at a minimum, at the time of filing the ACR). The Commission proposes to require that the schedule contain plans to adjust rates that may occur over the next 3 years, at a minimum. Specifically, the Postal Service must include the estimated filing and implementation dates (month and year) and an explanation that will allow mailers to predict with reasonable accuracy, by class, the amounts of planned rate adjustments. The Postal Service will retain the flexibility to provide a new schedule at any time. It may also deviate from the anticipated rate changes if it explains the reason for the deviation in its request to the Commission to review its notice of rate adjustment.

Requiring regular annual updates of the planned timing and magnitude of rate adjustments over a 3-year period would improve the mailing community's ability to plan budgets. The proposed changes to the schedule are also consistent with the Postal Service's current business practices to keep key stakeholders informed of planned rate changes outside of the ratemaking process. For instance, the Postal Service issued a press release in November 2009 announcing that it would not adjust market dominant rates in Calendar Year 2010.[96] Also, in July 2016, the Postal Service shared its plans to implement price adjustments in January 2017 with members of the industry.[97] Consistent with those continuing efforts, the proposed rule aims to improve accessibility of information for all mailers and minimize the need for mailers to refer to other materials. Therefore, the proposed changes also improve transparency by ensuring that the Commission and the public are aware of the Postal Service's current intent concerning future rate adjustments. The changes are also consistent with the Commission's review of the ratemaking process in Order No. 4257. *See* Order No. 4257 at 52–85, 142–46.

[96] U.S. Postal Service Announces 2010 Shipping Prices: Price of First-Class Postage Will Not Change, November 4, 2009, at 1.

[97] USPS 2017 Postal Pricing Considerations, QuadGraphics, July 25, 2016, available at *http://www.qg.com/blog/usps-2017-postal-pricing-considerations.*

d. Commission Analysis of Alternatives

The Commission proposes to improve the transparency of planned rate adjustments while retaining a mechanism that limits the magnitude of price adjustments. The Commission considers the Postal Service's representations about its capability to predict rate adjustments and the needs of mailers to have helpful information to plan their budgets in proposing this rule.

e. Proposed Regulatory Changes

The Commission proposes to replace existing § 3010.9 with proposed § 3010.102.

f. Conclusion

Pursuant to its general authority to revise its regulations under 39 U.S.C. 3622(a) and 503, the Commission proposes changes to the schedule to improve transparency.

3. Revised Procedural Schedule for Rate Adjustment Proceedings

a. Introduction

In Order No. 4257, the Commission determined that rate adjustment proceedings were able to be consistently adjudicated within 90 days. Order No. 4257 at 72. In each of the eight proceedings requesting to adjust rates for all classes during the PAEA era, the Postal Service filed its initial request to the Commission to review its notice of rate adjustment at least 90 days before the planned implementation date of each rate adjustment. *Id.* at 63. On average, the duration of Commission review of the eight large-scale rate proceedings in the PAEA era has been 62 days. *Id.* at 72. In six of these eight large-scale rate proceedings, there were significant issues with the Postal Service's rate adjustment filings resulting in durations of between 58 and 112 days. *Id.*

On average, the Commission sought additional information at least once in small-scale rate proceedings, resulting in an average duration of 37 days for Commission review of small-scale rate proceedings in the PAEA era. *Id.* at 75, 98. Longer review periods were due to the deficiencies in the Postal Service's filings that required correction to resolve the proceedings. *Id.* at 98. In the remainder of this section, the Commission considers potential procedural improvements.

b. Comments

In conjunction with its recommendation to eliminate the price cap, the Postal Service committed to continuing to provide at least 90 days' advance notice of planned rate adjustments. Postal Service Comments at 202, 206 n.398. Specifically, the Postal Service proposes establishing a requirement to provide notice of specific rate and structural changes 3 months prior to the planned implementation date. *Id.* at 205.

Other commenters did not put forth specific proposals concerning the notice requirement. While urging the Commission to retain a price cap system, MMA *et al.* favor the Postal Service's practice of providing more than 45 days advance notice of planned rate increases. MMA *et al.* Comments at 27. Similarly, SMC observes that the 90-day notice period corresponds with mailers' budget planning. SMC Comments at 7. Also, SIIA notes that its members plan their budgets early in the year. SIIA Comments at 7.

c. Proposed Commission Solution

To facilitate the administration of rate adjustment proceedings, the Commission proposes to extend the notice period from 45 days to 90 days prior to the planned implementation of rates. This proposed change codifies the existing practice. Requiring 90-days' advance notice of the specific rate and structural changes should facilitate mailers' ability to generate budgets. It also allows adequate time for the proceeding to be adjudicated, including potential changes, while still giving mailers time to implement the planned rates on the planned date.

Commensurate with extending the notice period, the Commission also proposes to extend the deadline to comment on an initial request from 20 days to 30 days. Allowing commenters 10 additional days to formulate comments will facilitate meaningful and intelligent participation by interested persons. The Commission also extends the deadline to comment on an amended request from 7 days to 10 days. These proposed durations are consistent with extensions to the comment period made in prior proceedings.

Commensurate with extending the notice period and the comment period, the Commission also proposes to lengthen the time for the Commission to render its decision from 14 days to 21 days after the conclusion of the comment period (for both an initial and an amended request). These proposed changes will better allow the Commission to evaluate each rate proceeding.

The Commission also proposes to enumerate potential actions that it may take if the Commission determines that the Postal Service's request fails to

contain the information required by the rules appearing in proposed §§ 3010.122 and 3010.123, which prescribe the contents of a request and the required supporting technical documentation. The Commission may: inform the Postal Service of the deficiencies and provide an opportunity for the Postal Service to take corrective action, toll or otherwise modify the procedural schedule until the Postal Service takes corrective action, dismiss the request without prejudice, or take other appropriate action. This proposed change codifies existing Commission practice, which will facilitate the Commission's ability to ensure that the initial Postal Service request complies with the relevant statutory and regulatory requirements. This proposed change will also better ensure that commenters and the Commission have accurate and complete information at the beginning of a rate proceeding.

Cumulatively, these changes remain consistent with the streamlined duration of rate review in the PAEA era. The changes are also consistent with the Commission's review of the ratemaking process in Order No. 4257. *See* Order No. 4257 at 52–85, 142–46.

Rate adjustments that only propose to establish or change rates for market dominant NSAs (denoted as Type 2 Rate Adjustments under existing § 3010.7) or only to adjust rates due to extraordinary or exceptional circumstances (denoted as Type 3 Rate Adjustments under existing § 3010.8) remain unaffected by these proposed procedural changes.

d. Commission Analysis of Alternatives

The Commission proposes to improve the transparency of planned rate adjustments while retaining a mechanism that limits the magnitude of price adjustments. The Commission has considered the Postal Service's commitments to providing at least 90 days' advance notice of planned rate adjustments and the needs of mailers to have helpful information to plan their budgets in proposing this rule.

e. Proposed Regulatory Changes

The Commission proposes to replace existing §§ 3010.10 and 3010.11, which contain the existing timing requirements for notice, comments, and Commission decision, with the following proposed rules.

Proposed § 3010.121 extends the periods for the Postal Service to provide public notice and submit a request to the Commission to review its notice of rate adjustment from 45 days to 90 days. Proposed § 3010.122(b) contains a conforming change concerning the representation of compliance with the public notice requirement.

Proposed § 3010.124(f) contains the revised timeframe allowing 30 days for public comment on the initial request. Proposed § 3010.126(b) contains the revised timeframe stating that the Commission decision will be issued within 21 days after the conclusion of the comment period.

Proposed § 3010.126(a) states that if the Commission determines that the Postal Service's request fails to contain the required information, the Commission may: Provide an opportunity for the Postal Service to take corrective action, toll or otherwise modify the procedural schedule until the Postal Service takes corrective action, dismiss the request without prejudice, or take other action as deemed appropriate by the Commission.

Proposed § 3010.126(f) contains the revised timeframe allowing 10 days for public comment on an amended request. Proposed § 3010.126(g) contains the revised timeframe stating that the Commission decision will be issued within 21 days after the conclusion of the comment period. Proposed § 3010.126(h) provides that no amended rate may take effect until 45 days after the Postal Service's amended request.

f. Conclusion

Pursuant to its general authority to revise its regulations under 39 U.S.C. 3622(a) and 503, the Commission proposes changes to the notice requirement (and the conforming changes to other procedural requirements) to facilitate the administration of rate proceedings.

IV. Description of Proposed Changes to Rules Appearing in the Code of Federal Regulations

A. Introduction

1. Affected Sections

The rules in 39 CFR part 3010, subparts A, B, C, and E. (existing §§ 3010.1 *et seq.,* 3010.10 *et seq.,* 3010.20 *et seq.,* and 3010.60 *et seq.*) are replaced in their entirety by new rules that appear in new subparts A, B, C, D, E, F, G, H, and I (proposed §§ 3010.100 *et seq.,* 3010.120 *et seq.,* 3010.140 *et seq.,* 3010.160 *et seq.,* 3010.180 *et seq.,* 3010.200 *et seq.,* 3010.220 *et seq.,* 3010.240 *et seq.,* and 3010.260 *et seq.*). Rules specific to NSAs appearing in 39 CFR part 3010, subpart D (existing § 3010.40 *et seq.)* are moved to new 39 CFR part 3020, subpart G (proposed § 3020.120 *et seq.*). Minor changes are proposed in existing §§ 3050.20(c) and 3055.2(c). The proposed rules appear after the signature of this Order in Attachment A.

2. General Restructuring

The new rules, as proposed, perform two functions: they implement the findings of this docket, and they utilize a simpler format that should be more readable, and thus, more user-friendly than the current rules. The discussions of the structure of the proposed rules and the line-by-line descriptions of the proposed rules explain how the findings of this docket have been implemented. *See* section IV, *infra.* The steps taken to simplify the format of the rules are addressed first.

The most significant simplification is a change in terminology. The current rules classify rate adjustments as either Type 1–A, 1–B, 1–C, 2, or 3. These rate adjustment types are associated with rate adjustments based on: the annual limitation only, the annual limitation and unused rate authority, a rate decrease only, an NSA, or an exigent circumstance. The use of the ''Type'' terminology, which is pervasive throughout the rules, both lengthens the rules (because each of these types must be defined) and makes the rules more difficult to understand (because the reader has to continuously refer back to the definitions to understand the rules). Furthermore, it is also apparent that the differences between Type 1–A, 1–B, and 1–C are in some instances nuanced and difficult to understand, and in some instances immaterial to the application of the rules.

Thus, the proposed rules replace the ''Type'' terminology with straightforward descriptions that identify the intent of the proceeding. The rules replace the Type 1–A, 1–B, and 1–C terminology with a single type of proceeding simply referred to as ''rate adjustments'' (which include a limitation on rate increases). The Type 3 terminology is replaced by rules governing ''rate adjustments due to extraordinary and exceptional circumstances.'' The Type 2 terminology is replaced by rules governing ''requests for market dominant [NSAs].'' The use of descriptive terms, instead of the ''Type'' terminology, is intended to improve the readability of the rules and make them more easily comprehendible.

The other significant simplification is to remove most rules concerning market dominant NSAs from 39 CFR part 3010. This proposal is based on the substance of the current NSA rules. Except for rules regulating the treatment of volumes used in general rate adjustment calculations, the majority of the rules concern the Commission's initial review

of an NSA and do not directly address potential adjustments to existing NSA rates.

Under the current rules, whenever the Postal Service proposes a new product (including a new NSA), it must first request that the product be added to the appropriate product list pursuant to the rules appearing in 39 CFR part 3020. Then, the NSA rules appearing in 39 CFR part 3010 are applied in addition to those already imposed by 39 CFR part 3020. Thus, it appears logical to combine both sets of rules within that same part, *i.e.,* 39 CFR part 3020. This further allows for deletion of duplicative material that currently appears in both 39 CFR parts 3010 and 3020.

In the event of rate adjustments for existing NSAs, under the proposed rules, the Postal Service should file pursuant to 39 CFR part 3020, and not 39 CFR part 3010. These rate adjustments typically do not implicate the requirements of 39 CFR part 3010. The focus of the review will generally be on the statutory requirements of 39 U.S.C. 3622(c)(10), which are implemented through the rules appearing in 39 CFR part 3020.

Several other minor simplifications are proposed. Some existing rules espouse aspirational goals, but fall short of imposing a requirement. For example, existing § 3010.10(b) encourages the Postal Service to provide more than 45 days for public notice of rate adjustments. Other rules merely repeat statutory requirements without imposing any new regulatory requirements. For example, existing § 3010.40 merely restates the special classifications requirements appearing in 39 U.S.C. 3622(c)(10). The proposed rules attempt to eliminate this type of aspirational and duplicative language throughout the regulations.

In certain areas, terminology is changed. For example, the current rules refer to each Postal Service request to review its notice as a ''notice.'' The proposed rules only refer to a ''notice'' when referring to a document that is directed towards the public. This includes, for example, a ''notice'' published in the **Federal Register** alerting the public to a Commission proceeding, or the Postal Service's ''notice'' to the public that it is adjusting rates. The term ''request'' is used in the proposed rules to refer to the material submitted by the Postal Service to the Commission pursuant to rate adjustments. This material in fact acts as a Postal Service ''request'' for the Commission to review the Postal Service's ''notice'' of rate adjustment.

The proposed modifications attempt to make other terminology consistent. An example is in the usage of the terminology ''unused rate authority,'' ''banked rate authority,'' and ''interim rate authority.'' Unused rate authority is the remaining amount of the maximum rate adjustment authority not used in any one rate adjustment proceeding. Banked rate adjustment authority is rate authority available for future rate adjustments. Interim rate authority is excess rate authority created when rate adjustments fall more than 12 months apart. Upon calculation of interim rate adjustment authority, it is immediately added to the bank for future use. Thus, it immediately becomes banked rate adjustment authority upon calculation.

3. Structure of the Proposed Rules

Proposed 39 CFR part 3010, the rules governing the Regulation of Rates for Market Dominant Products, is organized into the following nine subparts:

- Subpart A—General Provisions;
- Subpart B—Rate Adjustments;
- Subpart C—Consumer Price Index Rate Authority;
- Subpart D—Supplemental Rate Authority;
- Subpart E—Performance-Based Rate Authority;
- Subpart F—Non-Compensatory Classes or Products;
- Subpart G—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority;
- Subpart H—Rate Adjustments Due to Extraordinary and Exceptional Circumstances; and
- Subpart I—Workshare Discounts.

Proposed subpart A of 39 CFR part 3010 directs the reader to the appropriate starting point depending on the specific request of the Postal Service. For example, the reader is directed to proposed subpart B of 39 CFR part 3010 as the starting point to adjust market dominant rates of general applicability subject to the periodic limitations in rate increases. These are the typical, generally annual, rate adjustment proceedings. Proposed subpart B of 39 CFR part 3010 directs the reader to proposed subparts C through G of 39 CFR part 3010 to calculate the availability of rate adjustment authority in any one of these proceedings. There are five possible sources of rate adjustment authority: CPI (proposed subpart C of 39 CFR part 3010), supplemental (proposed subpart D of 39 CFR part 3010), performance-based (proposed subpart E of 39 CFR part 3010), non-compensatory (proposed subpart F of 39 CFR part 3010), and banked rate (proposed subpart G of 39 CFR part 3010).

For rate adjustments due to extraordinary and exceptional circumstances, the reader is directed to proposed subpart H of 39 CFR part 3010 as the starting point. Subject to the special procedures and requirements appearing in proposed subpart H of 39 CFR part 3010, however, the concepts espoused in proposed subparts B through G of 39 CFR part 3010 should be followed. For example, when calculating the percentage change in rates for an extraordinary or exceptional rate request, the Postal Service should apply the methodology of proposed § 3010.128, Calculation of percentage change in rates.

Proposed subpart I of 39 CFR part 3010 provides new rules concerning workshare discounts. These rules apply any time a rate that is associated with a workshare discount is adjusted, *i.e.,* for both market dominant rates of general applicability subject to the periodic limitations in rate increases, and rate adjustments due to extraordinary and exceptional circumstances.

The following new subpart is added to existing 39 CFR part 3020, Product Lists:

Subpart G—Requests for Market Dominant Negotiated Service Agreements.

The rules in this subpart are to be applied any time the Postal Service proposes the addition of a new market dominant NSA to the market dominant product list. Any time the Postal Service proposes to modify an existing market dominant NSA (either a rate or another term of the contract), the Commission will review the modifications based on an update to the material originally provided as required by proposed subpart G of 39 CFR part 3010.

B. Line-by-Line Discussion of Changes

1. Section 3010, Subpart A—General Provisions

Section 3010.100 Applicability. Paragraph (a) of proposed § 3010.100 identifies 39 CFR part 3010 as being applicable to rate adjustments for market dominant rates of general applicability. It also identifies the Mail Classification Schedule (MCS) posted on the Commission's Web site as a source for current rates.

Paragraph (b) of proposed § 3010.100 acts as an index to direct the reader to the rules for periodic rate adjustments subject to regulatory limitations, the calculations of the regulatory limitations, rate adjustment due to extraordinary or exceptional circumstances, and special rules for workshare discounts.

Section 3010.101 Definitions. Proposed § 3010.101 replaces the definitions currently appearing in existing § 3010.1. For the most part, the purported definitions in existing § 3010.1 act more as a table of contents than as a source for definitions. This may have been necessary to give meaning to the Type 1–A, 1–B, and 1–C terminology appearing in the current rules. However, it is no longer necessary due to the elimination of this terminology. Proposed § 3010.101 provides definitions for: annual limitation, banked rate authority, class, maximum rate adjustment authority, performance-based rate authority, rate authority applicable to non-compensatory classes, rate cell (existing § 3010.23(a)(2)), rate incentive (existing § 3010. 23(a)(3)), rate of general applicability (existing § 3010.1(g)), and seasonal or temporary rate.

Section 3010.102 Schedule for regular and predictable rate adjustments. The rules currently appearing in existing § 3010.9, concerning the Schedule for Regular and Predictable Rate Adjustments, are moved to proposed § 3010.102. Several changes are made to the current rule. To improve transparency, and ensure both the mailers and the Commission are aware of the Postal Service's current intent concerning future rate adjustments, the new rules require the Postal Service to specifically address plans to adjust rates that may occur over the next 3 years, at a minimum. The schedule that the Postal Service provides will be posted to the Commission's Web site, as is currently the case. The rules also require the Postal Service to update and file a schedule annually at the time it files its ACR pursuant to 39 U.S.C. 3652. For convenience, the Commission would prefer that the schedule be filed as part of the Annual Compliance Review docket, *i.e.,* under the applicable Annual Compliance Review docket number. As before, the Postal Service must update the schedule when necessary.

2. Section 3010, Subpart B—Rate Adjustments

Section 3010.120 General. This section identifies the rules in proposed subpart B of 39 CFR part 3010 as applicable to periodic rate adjustments subject to regulatory limitations.

Section 3010.121 Postal Service request. This section specifies the public notice requirement (paragraph c of proposed § 3010.121) and the requirement to submit a request to the Commission to review the Postal Service notice of rate adjustment (paragraph d of proposed § 3010.121). These rules currently appear in existing §§ 3010.10(a)(1) and (2). The current rules are changed to extend the notice and filing periods from 45 to 90 days. With this extension, the aspirational goal of providing a longer notice, currently appearing in existing § 3010.10(b), is deleted because it is no longer necessary.

The current requirement to take into consideration how planned rate adjustments are designed to help achieve the objectives listed in 39 U.S.C. 3622(b) and take into account the factors listed in 39 U.S.C. 3622(c), appearing in existing § 3010.12(b)(7), is moved to proposed § 3010.121(b). There is no reporting requirement for this paragraph. However, planned rates that are inconsistent with this provision may be returned to the Postal Service for reconsideration.

Section 3010.122 Contents of a request. This section specifies the general contents of the Postal Service's request to adjust rates. Existing § 3010.12, which includes these requirements, is being divided into two separate sections. Proposed § 3010.122 will provide requirements for the general contents of a Postal Service request. The rules currently appearing in existing § 3010.12(a), (b)(8), (b)(10), (b)(11), and (b)(12), concerning the general content of a Postal Service request, are moved to proposed § 3010.122, Contents of a request. Proposed § 3010.123 will provide requirements for the technical data (calculations) necessary to support the request. Proposed § 3010.122(f) ties the general requirements of proposed § 3010.122 to the technical requirements of proposed § 3010.123. Proposed § 3010.123 encompasses the remaining items currently appearing in existing § 3010.12.

There are two notable changes from the current rules. First, the public notice period is extended from at least 45 days to at least 90 days (proposed § 3010.122(b)). Second, the Postal Service will be required to certify that it has used the most recently approved analytical principles in its request (proposed § 3010.122(h)). Currently, the Postal Service must do so, but there is no certification requirement (existing § 3010.12(f)). This change will act as reinforcement to the current requirement, and provide the Postal Service with an opportunity to identify any challenges or limitations on complying with this requirement.

Section 3010.123 Supporting technical documentation. This section specifies the supporting technical documentation that the Postal Service is to provide with its request. The section begins with a description of the form for any workpapers that must be submitted with the request, *e.g.,* show all calculations, identify sources, submit in machine-readable, electronic format, link to spreadsheet cells (paragraph (a) of proposed § 3010.123). Similar requirements are currently spread throughout the rules.

Then, the remaining paragraphs describe the technical documentation that is to be provided with each request. The rules currently appearing in existing § 3010.12(b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(9), (c), (d), and (e), which specify technical supporting data to be filed with the Postal Service's request, are moved to proposed § 3010.123(b) through (i). These sections address the provision of data concerning: The calculation of the maximum rate adjustment authority; the schedule of banked rate authority; the calculation of the percentage change in rates; the calculation of unused rate adjustment authority; a schedule of workshare discounts; material concerning new workshare discounts; material concerning new discounts or surcharges not considered a workshare discount; and material concerning rate incentives.

A proposed § 3010.123(j) is added to require the provision of information associated with products or classes where the attributable cost for that class or product exceeded the revenue from that class or product as determined by the most recent ACD made pursuant to 39 U.S.C. 3653.

The requirements of existing § 3010.12(b)(6) concerning justifications for workshare discounts that exceed attributable costs are replaced by the material appearing in proposed subpart I of 39 CFR part 3010, Rates Applicable to Workshare Discounts and do not appear in proposed § 3010.123.

Section 3010.124 Docket and notice. The rules currently appearing in existing § 3010.11(a), concerning the establishment of a docket and the Commission's notice of proceedings, are moved to proposed § 3010.124. The content is unchanged except for the extension of the public comment period from 20 to 30 days.

Section 3010.125 Opportunity for comments. Similar rules concerning the opportunity for comment appear in existing § 3010.11(b) and (c). The wording is revised to simply allow comments on whether the planned rate adjustments comport with applicable statutory and regulatory requirements. As always, the Commission reserves the right to limit comments to those

relevant to the rate adjustment proceeding before the Commission.

Section 3010.126 Proceedings. This section specifies the general flow of a proceeding applicable to a request to review a notice of rate adjustment.

A new rule appearing in proposed § 3010.126(a) prescribes potential Commission action when the Postal Service's request does not substantially comply with the filing requirements concerning the contents of a request and the required supporting technical documentation. The Commission may inform the Postal Service of the deficiencies and provide an opportunity for the Postal Service to take corrective action, the Commission may toll or otherwise modify the procedural schedule until such time as the Postal Service takes corrective action, it may dismiss the request without prejudice, or take other action as deemed appropriate by the Commission.

The rules currently appearing in existing § 3010.11(d) through (k), concerning the general procedures for reviewing rate adjustments, are moved to proposed § 3010.126(b) through (j). Within this material, several time periods are modified. The time period from the conclusion of the comment period to the Commission issuing a determination is increased from 14 to 21 days. The comment period concerning any amended notice is increased from 7 to 10 days. The time period from the receipt of an amended notice to the Commission issuing a determination is increased from 14 to 21 days.

Section 3010.127 Maximum rate adjustment authority. This section specifies the calculation of the maximum rate adjustment authority, and imposes limitations on certain rate decreases. Proposed § 3010.127 replaces the rules currently appearing in existing § 3010.20. The fundamental differences between the current rules and the new rules are the expanded sources for potential rate adjustment authority available under the new rules. The current rules determine a maximum allowable rate adjustment based upon an annual limitation (CPI rate authority), or if the annual limitation is entirely used, the annual limitation plus available banked rate authority (up to 2 percent). The new rules add three sources of potential rate adjustment authority to the CPI rate authority (proposed subpart C of 39 CFR part 3010) and the banked rate authority (proposed subpart G of 39 CFR part 3010) when determining the maximum allowable rate adjustment: Supplemental rate authority (proposed subpart D of 39 CFR part 3010), performance-based rate authority (proposed subpart E of 39 CFR part 3010), and non-compensatory rate authority (proposed subpart F of 39 CFR part 3010). The availability of each of these sources is subject to limitations appearing in each of the new subparts. The maximum rate adjustment authority available to the Postal Service for each class of market dominant mail is limited to the sum of the percentage points developed in each of these subparts.

Existing § 3010.20(e) imposed no limitation on the amount of a rate decrease. This provision is replaced by a requirement that the rates for non-compensatory products may not be reduced. There is no limitation on the amount of a rate decrease for any other product.

Section 3010.128 Calculation of percentage change in rates. This section specifies the calculation of percentage change in rates. The rules currently appearing in existing § 3010.23, concerning the calculation of percentage change in rates, and existing § 3010.24, concerning the treatment of volumes associated with NSAs and rate incentives not of general applicability, are moved to proposed § 3010.128. There is no intent to change the meaning or operation of the rules currently in place.

Paragraph (a) of proposed § 3010.128 provides the meaning of ''current rate'' for the purpose of this section and provides two exceptions to the definition. This material previously appeared in existing § 3010.23(a)(1).[98] The definitions for ''rate cell'' and ''rate incentive'' currently appearing in existing § 3010.23(a)(2) and (3) are added to other definitions appearing in proposed § 3010.101.

Paragraph (b) of proposed § 3010.128 describes the determination of volumes associated with each rate cell. This material currently appears in existing § 3010.23(d).

Paragraph (c) of proposed § 3010.128 describes the process for calculating the percentage change in rates when rates are being increased. This material currently appears in existing § 3010.23(b)(1).

Paragraph (d) of proposed § 3010.128 describes the process for calculating the percentage change in rates when rates are being decreased. This explanation currently appears in existing § 3010.23(b)(2).

Paragraph (e) of proposed § 3010.128 provides the formula for calculating the percentage change in rates. The formula currently appears in existing § 3010.23(c).

Paragraph (f) of proposed § 3010.128 describes the treatment of volume associated with rate incentives where the rates are not of general applicability. This material currently appears in existing § 3010.23(e).

Paragraph (g) of proposed § 3010.128 describes the treatment of volume associated with NSAs and rate incentives not of general applicability. This material currently appears in existing § 3010.24.

Section 3010.129 Exceptions for de minimis rate increases. This section provides exceptions to the requirements to immediately calculate the maximum rate adjustment authority and bank unused rate adjustment authority in the case of de minimis rate increases. The rules currently appearing in existing § 3010.30 concerning de minimis rate increases are moved to proposed § 3010.129. There is no intent to change the meaning or operation of the rules currently in place. Additionally, paragraph (g) of proposed § 3010.129 is added as a reminder that rates may not be reduced for non-compensatory products.

3. Section 3010, Subpart C—Consumer Price Index Rate Authority

Section 3010.140 Applicability. This section informs the reader that rate adjustment authority is available based upon changes in the CPI. Rate adjustment authority is calculated differently depending on whether the rate adjustment is being filed 12 or more months from the previous rate adjustment (proposed § 3010.142), or less than 12 months from the previous rate adjustment (proposed § 3010.143).

Section 3010.141 CPI–U data source. The duplicate rules currently appearing in existing §§ 3010.21(a) and 3010.22(b), concerning the source of data for CPI–U values, are combined and moved to proposed § 3010.141.

Section 3010.142 CPI–U rate authority when requests are 12 or more months apart. The rules currently appearing in existing § 3010.21(b), concerning calculation of CPI–U rate authority when notices of rate adjustments are 12 or more months apart, are moved to proposed § 3010.142.

Section 3010.143 CPI–U rate authority when requests are less than 12 months apart. The rules currently appearing in existing § 3010.2(b) through (d), concerning calculation of CPI–U rate authority when notices of rate adjustments are less than 12 months apart, are moved to proposed § 3010.143.

[98] The example included in existing § 3010.23(a)(1)(iii) is being omitted because it more appropriately belonged in a description of the rule, and not in the rule itself. The example remains factually accurate.

4. Section 3010, Subpart D—Supplemental Rate Authority

Section 3010.160 Applicability. This section informs the reader of the availability of 2 percentage points of rate authority per class of mail per calendar year for each of the first 5 full calendar years following the effective date of these rules. The rate authority must be applied, if at all, to the first generally applicable rate increase filed within a calendar year. For each of the 5 calendar years, the rate authority becomes effective on January 1 and lapses on December 31 if unused. The unused portion may not be banked for future use. The Commission intends to also apply the no banking rule (proposed § 3010.160(b)(5)) to any attempt to circumvent the intent of this provision, such as filing a rate increase immediately followed by the filing of a rate decrease in order to create banked rate authority.

5. Section 3010, Subpart E—Performance-Based Rate Authority

Section 3010.180 Applicability. This section informs the reader of the availability of up to 1 percentage point of rate authority per class of mail per calendar year based upon the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service quality-related criteria. The Commission shall review both operational efficiency and service quality in the ACD. If the Commission determines that the requirements are met, 0.75 percentage points shall be allocated for operational efficiency, and 0.25 percentage points shall be allocated for service quality. Each determination (and allocation) is independent of the other.

The rate authority must be applied, if at all, to the first generally applicable rate increase filed within a calendar year. The rate authority becomes effective on January 1 and lapses on December 31 if unused. If unused, or if not fully used, the unused portion may not be banked for future use. The Commission intends to also apply the no banking rule (proposed § 3010.180(b)(5)) to any attempt to circumvent the intent of this provision, such as filing a rate increase immediately followed by the filing of a rate decrease in order to create banked rate authority.

Section 3010.181 Operational efficiency-based rate authority. This section provides the criteria for allocating 0.75 percentage points of rate authority based on operational efficiency. This rate authority shall be allocated if the average annual TFP growth over the most recent 5 years met or exceeded 0.606 percent.

Section 3010.182 Service quality-based rate authority. This section provides the criteria for allocating 0.25 percentage points of rate authority based on service quality. This rate authority shall be allocated for each class of mail if the Commission finds in the appropriate ACD that all of the Postal Service's service standards (including applicable business rules) for that class during the applicable year met or exceeded the service standards in place during the prior fiscal year on a nationwide or substantially nationwide basis. This test examines the service standards and the business rules. It does not examine actual service performance such as time-to-delivery.

The Commission's finding in the ACD may be challenged. Any interested person may challenge the finding within 30 days of the ACD being issued. Once challenged, the Commission shall rule on the challenge within 60 days of the challenge being filed. The subject matter of the challenge is limited to changes in service standards or business rules that occur on a national or substantially nationwide basis. Whether or not the Postal Service is meeting its service standards shall not be the subject of this form of challenge.

6. Section 3010, Subpart F—Non-Compensatory Classes or Products

Section 3010.200 Applicability. This section informs the reader that proposed subpart F of 39 CFR part 3010 prescribes rate setting criteria for products where the attributable cost for that product exceeded the revenue from that product, *i.e.,* the product is non-compensatory. It also prescribes rate setting criteria for any class of mail where the attributable cost for that class exceeded the revenue from that class, *i.e.,* the class is non-compensatory. The Commission shall review whether or not a class or a product is compensatory in the ACD. If the Commission determines that a class or a product is non-compensatory, this subpart applies.

Section 3010.201 Individual product requirement. For non-compensatory products, the Postal Service shall increase the rate of the product by a minimum of 2 percentage points above the percentage increase of the class that includes the non-compensatory product. Rates for the compensatory products in the class shall be adjusted accordingly. This section does not create additional rate adjustment authority for the class.

Section 3010.202 Class requirement and additional class rate authority. Paragraph (a) of proposed § 3010.202 provides 2 percentage points of additional rate authority for non-compensatory classes. Paragraph (b) of proposed § 3010.202 prescribes rate setting criteria, which requires the Postal Service to use all available rate setting authority when adjusting rates for non-compensatory classes. This includes all CPI, supplemental, performance-based, and banked (up to the 2-percent maximum) rate authority plus the additional 2 percentage points specified in proposed § 3010.202(a). This section applies only it the Postal Service chooses to adjust rates for the non-compensatory class.

Paragraph (c) of proposed § 3010.202 prescribes that the rate authority must be applied, if at all, to the first generally applicable rate increase filed within a calendar year. The rate authority becomes effective on January 1 and lapses on December 31 if unused. If unused, or if not fully used, the unused portion may not be banked for future use. The Commission intends to also apply the no banking rule (proposed § 3010.202(c)(4)) to any attempt to circumvent the intent of this provision, such as filing a rate increase immediately followed by the filing of a rate decrease in order to create banked rate authority.

7. Section 3010, Subpart G—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority

Section 3010.220 General. This section requires the Postal Service to calculate unused rate adjustment authority, and, if applicable, revise the schedule of banked rate adjustment authority, whenever it plans to adjust rates. Limited exceptions to this rule apply, such as when the Postal Service requests review of a de minimis rate adjustment.

Section 3010.221 Schedule of banked rate adjustment authority. The rule currently appearing in existing § 3010.26(f), concerning the schedule of banked rate adjustment authority, is moved to proposed § 3010.221. The rule has been expanded to include a list of items that should be tracked within the schedule. The schedule should include the availability of banked rate adjustment authority (before and after filing rate adjustments), along with the sources, amounts, and dates associated with any changes to the schedule.

Section 3010.222 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed 12 months apart or less. The rules currently appearing in existing § 3010.26(b), concerning the calculation of unused rate adjustment authority, are moved to

proposed § 3010.222(a). The calculation is changed to reflect that the maximum rate adjustment authority may include CPI, supplemental, performance-based, and non-compensatory rate authority, whereas CPI rate authority is currently the only source of new rate adjustment authority. Otherwise, there is no intent to change the meaning or operation of the rules currently in place.

Paragraph (b) of proposed § 3010.222 imposes a requirement where a class of mail is non-compensatory. In that instance, unused rate adjustment authority cannot be generated or banked. Potential unused rate adjustment authority that may be banked is assumed to be zero. This also forecloses the possibility of banking negative rate authority in times of deflation.

Paragraph (c) of proposed § 3010.222 limits the maximum amount of unused rate adjustment authority that can be banked to the unused portion of the CPI rate authority.

Section 3010.223 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed more than 12 months apart. The rules currently appearing in existing § 3010.26(c), concerning the calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed more than 12 months apart, are moved to proposed § 3010.223(a) through (c). The rules are restructured to make it clear that interim rate adjustment authority must be calculated first and that amount immediately added to the bank. Then, unused rate adjustment authority may be calculated.

The material currently appearing in existing § 3010.26(c)(2), which provides the formula for calculating the interim rate adjustment authority, is moved to proposed § 3010.223(b). There is no intent to change the meaning or operation of this rule.

The rules currently appearing in existing § 3010.26(b), concerning the calculation of unused rate adjustment authority, are moved to proposed § 3010.223(c) (Note that this is essentially the same calculation as appears in proposed § 3010.222(a) above). The calculation is changed to reflect that the maximum rate adjustment authority may include CPI, supplemental, performance-based, and non-compensatory rate authority, whereas CPI rate authority is currently the only source of new rate adjustment authority. Otherwise, there is no intent to change the meaning or operation of the rules currently in place.

Paragraph (d) of proposed § 3010.222 imposes a requirement where a class of mail is non-compensatory. In that instance, unused rate adjustment authority cannot be generated or banked. Potential unused rate adjustment that may be banked is assumed to be zero. This also forecloses the possibility of banking negative rate authority in times of deflation.

Paragraph (e) of proposed § 3010.222 limits the maximum amount of unused rate adjustment authority that can be banked to the unused portion of the CPI rate authority.

Section 3010.224 Calculation of unused rate adjustment authority for rate adjustments that only include rate decreases. The rules currently appearing in existing § 3010.27, concerning the calculation of unused rate adjustment authority for rate adjustments that only include rate decreases, are moved to proposed § 3010.224. The calculation is changed to reflect that the maximum rate adjustment authority may include CPI, supplemental, performance-based, and non-compensatory rate authority, whereas CPI rate authority is currently the only source of new rate adjustment authority. Otherwise, there is no intent to change the meaning or operation of the rules currently in place.

Paragraph (c) in proposed § 3010.224 limits the maximum amount of unused rate adjustment authority that can be banked to the unused portion of the CPI rate authority, referenced back to the most recent rate adjustment filing that involved a rate increase.

Paragraph (f) of proposed § 3010.224 concerning possible interactions with exigent rate requests, currently appearing in existing § 3010.6(b)(2), is added to this rule.

Section 3010.225 Application of banked rate authority. This section explains how previously banked rate authority may be applied to a rate adjustment request. The current rule appearing in existing § 3010.25, which states that all CPI rate authority must be used before banked rate authority can be used, is moved to proposed § 3010.225(b). The rule is changed to reflect that the proposed rate adjustment authority may include CPI, supplemental, performance-based, and non-compensatory rate authority, whereas CPI rate authority is currently the only source of new rate adjustment authority. Otherwise, there is no intent to change the meaning or operation of the rule currently in place.

The rule currently appearing in existing § 3010.29, which limits use of banked rate adjustment authority to 2 percent in any 12-month period, is moved to proposed § 3010.225(c). Direction is added to modify the schedule of banked rate adjustment authority, whenever this authority is used, as of the date of the final order accepting the rates.

The rule currently appearing in existing § 3010.26(d), which explains how interim rate authority may be used, is moved to proposed § 3010.225(d).

The rule currently appearing in existing § 3010.28, which explains that banked rate adjustment authority must be used utilizing the first-in-first-out method beginning 5 years before the filing date of the instant notice, is moved to proposed § 3010.225(e). The wording is changed for consistency with other paragraphs of this section.

The rule currently appearing in existing § 3010.26(e), which explains that banked rate adjustment authority lapses 5 years from the filing date of the request leading to its calculation, is moved to proposed § 3010.225(f).

8. Section 3010, Subpart H—Rate Adjustments Due to Extraordinary and Exceptional Circumstances

The rules currently appearing in 39 CFR part 3010, subpart E (existing § 3010.60 *et seq.*), concerning exigent rate increases, are moved to 39 CFR part 3010, subpart H (proposed § 3010.240 *et seq.*). There is no intent to change the meaning or operation of the rules currently in place. However, the order in which the material appears has changed, along with some material being reorganized amongst paragraphs.

9. Section 3010, Subpart I—Workshare Discounts

Section 3010.260 Applicability. This subpart establishes rate design criteria for workshare discounts. The percentages of avoided costs that may be passed through to a customer in the form of a workshare discount are limited, and must fall within defined bands. The percentage passed through is defined as the workshare discount offered by the Postal Service divided by the cost avoided by the Postal Service for not providing the applicable service.

Section 3010.261 Passthrough requirement. Two passthrough bands are established, one for Periodicals (75 to 125 percent), and one for all other classes (85 to 115 percent). Workshare passthroughs that fall within the applicable bands are accepted without further justification. Workshare passthroughs that fall outside the applicable bands, and that do not fall within one of the exceptions discussed below, are subject to return to the Postal Service for adjustment. *See* proposed § 3010.126(d).

Section 3010.262 Exceptions for noncompliant discounts. This section establishes a grace period of 3 years to bring existing workshare passthroughs, and newly created future, workshare passthroughs into compliance with this subpart. If the Postal Service asserts that either grace period applies, it also must submit a plan (with each request to review a notice of rate adjustment) explaining how the applicable passthrough will be brought into compliance with this subpart before the expiration of the grace period. Failure to submit a plan where it can be reasonably concluded that rates will be brought into compliance before the end of the grace period, will result in the remand of the discount. *See* proposed § 3010.126(d).

10. Section 3020, Subpart G—Requests for Market Dominant Negotiated Service Agreements

Whenever a new NSA is proposed, a primary consideration is whether the agreement is properly classified as either market dominant or competitive. The starting point for considering the proper classification is the rules appearing in 39 CFR part 3020. Those rules govern the MCS and the addition, deletion, or transfer of a product to either the market dominant product list or the competitive product list. The rules currently appearing in 39 CFR part 3010, subpart D generally assist in the analysis required by 39 CFR part 3020. The remainder of the rules governing the regulation of rates appearing in 39 CFR part 3010 are generally not implicated. Thus, the rules currently appearing in existing 39 CFR part 3010, subpart D, concerning NSAs, are moved to proposed 39 CFR part 3020, subpart G.

In several instances, the rules currently appearing in 39 CFR part 3010, subpart D are duplicative of the rules appearing in 39 CFR part 3020. Moving these provisions allows for streamlining of the rules. There is no intent to change the meaning or operation of the rules currently in place. The move should clarify that a proposal to add a new NSA is to be filed pursuant to 39 CFR part 3020. Furthermore, in most instances adjustments to rates for existing NSAs require a review of the material previously provided pursuant to 39 CFR part 3020. Again, the rules governing the regulation of rates appearing in 39 CFR part 3010 are generally not implicated. Thus, requests concerning the adjustment of rates for NSAs should be filed as a contract update pursuant to 39 CFR part 3020.

Existing § 3010.40 Negotiated service agreements. This rule merely repeats the statutory requirements of 39 U.S.C. 3622(c)(10) and is being deleted. This statutory requirement is effectively analyzed using the supporting material that will be provided under proposed § 3020.121.

Existing § 3010.41 Notice. This rule is duplicative of the notice requirements currently appearing in 39 CFR part 3020 applicable to new NSAs and is being deleted.

Existing § 3010.44 Proceedings for type 2 rate adjustments. Paragraph (a) of existing § 3010.44 is duplicative of the docketing and notice requirements currently appearing in 39 CFR part 3020 applicable to new NSAs and is being deleted. The requirements appearing in existing § 3010.44(b) and (c) are being incorporated into the general requirements of proposed § 3020.120.

Section 3020.120 General. This rule explains that the requirements of 39 CFR part 3020, subpart G, which are specific to market dominant NSAs, impose requirements in addition to those appearing elsewhere in 39 CFR part 3020, which are applicable to adding products to a product list. It also incorporates the existing requirements currently appearing in existing § 3010.44(b) and (c) as discussed above.[99]

Section 3020.121 Additional supporting justification for negotiated service agreements. The rules currently appearing in existing § 3010.42, concerning additional supporting information, are moved to proposed § 3020.121 with the following changes. The requirement for the availability of similar NSAs to similarly situated mailers, currently appearing in existing § 3010.40(c), is included in the new rule. The requirement to produce evidence that the Postal Service has provided notice at least 45 days before a new rate can go into effect, currently appearing in existing § 3010.42(c), has been deleted.

Section 3020.122 Data collection plan and report for negotiated service agreements. The rules currently appearing in existing § 3010.43, concerning a data collection plan, are moved to proposed § 3020.122 without change.

11. Section 3050, Periodic Reporting

Section 3050.20 Compliance and other analyses in the Postal Service's section 3652 report. The workshare discount provision in § 3050.20(c) has been superseded by the provisions of proposed 39 CFR part 3010, subpart I—Workshare Discounts. Paragraph (c) of existing § 3050.20 is modified by removing the phrase ''discounts greater than avoided costs,'' from the sentence ''It shall address such matters as non-compensatory rates, discounts greater than avoided costs, and failures to achieve stated goals for on-time delivery standards.''

12. Section 3055, Subpart A—Annual Reporting of Service Performance

Section 3055.2 Contents of the annual report of service performance achievements. Paragraph (c) of existing § 3055.2 currently requires the reporting of the applicable service standard(s) for each product. This paragraph is expanded to require the Postal Service to also provide a description of and reason for any changes to service standards, or to certify that no changes to service standards have been made, since the last report.

V. Administrative Actions

A. Assignment of Public Representative

Pursuant to 39 U.S.C. 505, Richard A. Oliver shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. *See* Order No. 3673 at 11.

B. Request for Comments and Reply Comments

The Commission will accept comments and reply comments concerning whether the proposed changes outlined by this rulemaking achieves the objectives in 39 U.S.C. 3622(b). Comments are due no later than March 1, 2018. Reply comments are due no later than March 30, 2018.

Commission rules require that comments (including reply comments) be filed online according to the process outlined at 39 CFR 3001.9(a), unless a waiver is obtained. Additional information regarding how to submit comments online can be found at: *http://www.prc.gov/how-to-participate.* All comments accepted will be made available on the Commission's Web site (*http://www.prc.gov*).

VI. Ordering Paragraphs

It is ordered:

1. Pursuant to 39 U.S.C. 505, Richard A. Oliver shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

[99] Note that there is a requirement for the Postal Service to provide at least a 45-day notice whenever it adds, removes, or adjusts a rate applicable to an NSA. There is no similar statutory requirement governing the Commission's time for consideration of the addition, removal, or transfer of an NSA to a product list.

2. Comments regarding the proposed rulemaking are due no later than March 1, 2018.

3. Reply comments regarding the proposed rulemaking are due no later than March 30, 2018.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

Supplemental Views of Vice Chairman Mark Acton, Supplemental Views of Commissioner Nanci E. Langley, Commissioner Tony Hammond Dissenting.

Supplemental Views of Vice Chairman Mark Acton

The United States Postal Service faces tests in nearly every conceivable scenario as it, a venerable institution instrumental in the founding of our Nation, moves further into the 21st century. Many of the Postal Service's greatest challenges are not a primary result of the rates that it charges its customers and partners. Comprehensive legislative reform is best suited for brokering compromise and tailoring outcomes in this landscape where such divergent interests must coexist. The last few years have seen significant bipartisan efforts in Congress to craft such reform, and it has yet to come to fruition. The Commission does not have the ability to allow the Postal Service to re-amortize unfunded liabilities, administer employee benefits differently, change the frequency of delivery, or deliver profitable items restricted by statute. In short, there is no action the Commission can take to substitute for meaningful legislative reform, and I urge Congress to continue to work toward that goal.

The Commission, however, cannot shirk its lawful responsibility to review and, if necessary, propose and implement regulations to address flaws in the market dominant ratemaking system. If the Commission determines that the PAEA's range of objectives are not being met, the law empowers the Commission to attempt improvements via the use of one tool alone—reform to the system for regulating rates and classes for market dominant products. In other words, this singular device—the ratemaking system—may be wielded by the regulator in an effort to achieve these objectives.

The Commission, including its expert legal and technical staff, has undertaken a time and resource intensive effort to review the previous 10 years' experience under the PAEA and chart a path forward that is responsive to its statutory duty. I have the highest regard for the Postal Service and its customers. As a Postal Rate and Postal Regulatory Commissioner, my record is replete with examples of my concern for postal customers' interests and sensitivity to rate adjustments. I look forward to hearing from the mailing community with comments that demonstrate, based on solid quantitative technical and well-supported legal analysis, how the Commission's proposal may be improved.

Mark Acton.

Supplemental Views of Commissioner Nanci E. Langley

As the Commission has recognized in its annual reports to the President and Congress, there is a tension between the restrictions of an inflation-based price cap on market dominant price increases and the objectives established in section 3622(b), in particular, the objective that the Postal Service has adequate revenues and retained earnings in order to maintain financial stability.[100] This instant rulemaking proposes one approach to regulating market dominant rates, which may satisfy the objectives of the PAEA. However, it is only one of many possible approaches. Interested parties, especially users of the mail, now have an opportunity to critique this approach and/or propose alternative solutions through the comment and reply comment periods.

For this reason, I approve moving forward with this rulemaking and will continue to work actively in establishing a ratemaking system that provides the necessary balance to ensure the financial viability of the Postal Service with affordable and predictable rates for ratepayers.

Nanci E. Langley.

Dissenting Views of Commissioner Tony Hammond

I respectfully disagree with the Commission's decision to propose the changes contained in this Order because, rather than balancing all the objectives of 39 U.S.C. 3622, the proposed changes elevate the financial stability objective above the others.

As I explained in my concurring statement to Order No. 4257, the existing ratemaking system has not provided the Postal Service with revenues adequate to maintain financial stability. However, I have also concluded that a significant portion of the Postal Service's financial instability results from an overly aggressive retiree health benefits prefunding schedule—which warrants a legislative solution—and from the Postal Service's decision in 2007 not to pursue the final cost-of-service rate increase authorized by the PAEA. Therefore, I would propose a one-time price increase that raises the Postal Service's finances to the level needed to ensure stability absent those two factors, while leaving the price cap intact for future rate adjustments.

In contrast, the changes proposed in this Order essentially constitute a return to the PRA's cost-of-service rates, but without any of the protections of the PRA framework.

The PRA afforded the Postal Service the ability to recover all its costs through price increases, but accordingly made it forgo pricing flexibility and subjected it to significant regulatory scrutiny. The PAEA freed up the Postal Service's flexibility to set prices as it sees fit. But, it also simultaneously imposed the constraint of an overall price cap to protect customers.

The changes proposed in this Order would grant the Postal Service the benefits of both systems and require of it the sacrifices of neither.

I am especially troubled by what effect these changes may have if the Postal Service's finances deteriorate in unforeseen ways. This Order is committed to price increases that deliver revenues equaling the sum of all the Postal Service's costs, whatever they may be, with additional revenues to cover long-term capital expenditures. This is a laudable goal. But, if the Postal Service's costs (particularly its structural costs) increase unexpectedly, the logic of this Order would require ever-increasing prices, even if that would drive away mail volume at a rate that could put the Postal Service out of business.

A second concern I have is the questionable regulatory complexity that this Order seeks to overlay on what has been, until now, a straightforward and pragmatic ratemaking system. For example, tying 0.75 percent of pricing authority to Commission-approved efficiency and 0.25 percent of pricing authority to Commission-approved service performance creates unnecessary regulatory hurdles.

Of course, we must go through a formal process seeking public input in order to replace the current system and this proposal is no more than a starting point. All the Commissioners agree that some change is needed to the

[100] Postal Regulatory Commission, Annual Report to the President and Congress, Fiscal Year 2016, January 12, 2017, at 24; Postal Regulatory Commission, Annual Report to the President and Congress, Fiscal Year 2015, January 6, 2016, at 22; and Postal Regulatory Commission, Annual Report to the President and Congress, Fiscal Year 2014, January 5, 2015, at 20.

ratemaking system. But, we disagree on the exact changes that would be most prudent. I look forward to comments on how to craft a balanced change, one that provides the Postal Service with a fair level of additional revenue while continuing to ensure that all of the objectives of 39 U.S.C. 3622 are met. In this regard, I note that the exigent surcharges that were in effect from 2014 to 2016 appeared not to result in any significant volume loss. Therefore, they may serve as a useful starting point for analyses.

I am hopeful that, with the input of all stakeholders, the Commission can arrive at a balanced resolution to this review process.

Tony Hammond.

List of Subjects

39 CFR Part 3010

Administrative practice and procedure, Postal Service.

39 CFR Part 3020

Administrative practice and procedure.

39 CFR Part 3050

Administrative practice and procedure, Reporting and recordkeeping requirements.

39 CFR Part 3055

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Commission proposes to amend Chapter III of title 39 of the Code of Federal Regulations as follows:

■ 1. Revise part 3010 to read as follows:

PART 3010—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

Subpart A—General Provisions

Sec.
3010.100 Applicability.
3010.101 Definitions.
3010.102 Schedule for regular and predictable rate adjustments.

Subpart B—Rate Adjustments

3010.120 General.
3010.121 Postal Service request.
3010.122 Contents of a request.
3010.123 Supporting technical documentation.
3010.124 Docket and notice.
3010.125 Opportunity for comments.
3010.126 Proceedings.
3010.127 Maximum rate adjustment authority.
3010.128 Calculation of percentage change in rates.
3010.129 Exceptions for de minimis rate increases.

Subpart C—Consumer Price Index Rate Authority

3010.140 Applicability.
3010.141 CPI–U data source.
3010.142 CPI–U rate authority when requests are 12 or more months apart.
3010.143 CPI–U rate authority when requests are less than 12 months apart.

Subpart D—Supplemental Rate Authority

3010.160 Applicability.

Subpart E—Performance-Based Rate Authority

3010.180 Applicability.
3010.181 Operational efficiency-based rate authority.
3010.182 Service quality-based rate authority.

Subpart F—Non-compensatory Classes or Products

3010.200 Applicability.
3010.201 Individual product requirement.
3010.202 Class requirement and additional class rate authority.

Subpart G—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority

3010.220 General.
3010.221 Schedule of banked rate adjustment authority.
3010.222 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed 12 months apart or less.
3010.223 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed more than 12 months apart.
3010.224 Calculation of unused rate adjustment authority for rate adjustments that only include rate decreases.
3010.225 Application of banked rate authority.

Subpart H—Rate Adjustments Due to Extraordinary and Exceptional Circumstances

3010.240 General.
3010.241 Contents of a request.
3010.242 Supplemental information.
3010.243 Docket and notice.
3010.244 Public hearing.
3010.245 Opportunity for comments.
3010.246 Deadline for Commission decision.
3010.247 Treatment of banked rate adjustment authority.

Subpart I—Workshare Discounts

3010.260 Applicability.
3010.261 Passthrough band requirement.
3010.262 Exceptions for noncompliant discounts.

Authority: 39 U.S.C. 503; 3622.

Subpart A—General Provisions.

§ 3010.100 Applicability.

(a) The rules in this part implement provisions in 39 U.S.C. chapter 36, subchapter I, establishing the system of ratemaking for market dominant products. These rules are applicable whenever the Postal Service proposes to adjust a rate of general applicability for any market dominant product, which includes the addition of a new rate, the removal of an existing rate, or a change to an existing rate. Current rates may be found in the Mail Classification Schedule appearing on the Commission's Web site at *www.prc.gov.*

(b) Rates may be adjusted either subject to the rules appearing in subpart B of this part, which includes a limitation on rate increases, or subject to the rules appearing in subpart H of this part, which does not include a limitation on rate increases, but requires either extraordinary or exceptional circumstances. The rules applicable to the calculation of the limitations on rate increases appear in subparts C through G of this part. The rules for workshare discounts, which are applicable whenever market dominant rates are adjusted, appear in subpart I of this part.

§ 3010.101 Definitions.

(a) The definitions in paragraphs (b) through (k) of this section apply in this part.

(b) ''Annual limitation'' means the annual limitation on the percentage change in rates equal to the change in the Consumer Price Index for all Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files a request to review rate adjustments as determined by the Commission.

(c) ''Banked rate authority'' means unused rate adjustment authority accumulated for future use pursuant to these rules.

(d) A ''class'' of mail means the First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, or Special Services groupings of market dominant Postal Service products or services. Generally, the regulations in this part are applicable to individual classes of mail.

(e) ''Maximum rate adjustment authority'' means the maximum percentage change in rates available to a class for any planned increase in rates. It is based upon the consumer price index rate authority, and any available supplemental rate authority, banked rate authority, performance-based rate authority, and rate authority applicable to non-compensatory classes.

(f) ''Performance-based rate authority'' means rate authority which is available to all classes where the Postal Service meets or exceeds operational efficiency-based standards or adheres to service quality-related criteria as determined in the most recent Annual Compliance Determination.

(g) ''Rate authority applicable to non-compensatory classes'' means rate authority available to classes where revenue was insufficient to cover attributable costs as determined in the most recent Annual Compliance Determination.

(h) ''Rate cell'' means each and every separate rate identified in any planned rate adjustment for rates of general applicability.

(i) ''Rate incentive'' means a discount that is not a workshare discount and that is designed to increase or retain volume, improve the value of mail for mailers, or improve the operations of the Postal Service.

(j) ''Rate of general applicability'' means a rate applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic Mail Manual, and the International Mail Manual. A rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies. A rate is not a rate of general applicability if it benefits a single mailer. A rate that is only available upon the written agreement of both the Postal Service and a mailer, a group of mailers, or a foreign postal operator is not a rate of general applicability.

(k) A ''seasonal or temporary rate'' is a rate that is in effect for a limited and defined period of time.

§ 3010.102 Schedule for regular and predictable rate adjustments.

(a) The Postal Service shall develop a Schedule for Regular and Predictable Rate Adjustments applicable to rate adjustments subject to this part. The Schedule for Regular and Predictable Rate Adjustments shall:

(1) Schedule rate adjustments at specific regular intervals,

(2) provide estimated filing and implementation dates (month and year) for future rate adjustments for each class of mail expected over a minimum of the next 3 years, and

(3) provide an explanation that will allow mailers to predict with reasonable accuracy, by class, the amounts of future scheduled rate adjustments.

(b) The Postal Service shall file a current Schedule for Regular and Predictable Rate Adjustments annually with the Commission at the time it files its Annual Compliance Determination Report pursuant to 39 U.S.C. 3652. The Commission shall post the current schedule on the Commission's Web site at *www.prc.gov.*

(c) Whenever the Postal Service deems it appropriate to change the Schedule for Regular and Predictable Rate Adjustments, it shall file a revised schedule.

(d) The Postal Service may vary the magnitude of rate adjustments from those estimated by the Schedule for Regular and Predictable Rate Adjustments. In such case, the Postal Service shall provide an explanation for such variation with its rate adjustment filing.

Subpart B—Rate Adjustments

§ 3010.120 General.

This subpart describes the process for the periodic adjustment of rates subject to the percentage limitations specified in § 3010.127 which are applicable to each class of mail.

§ 3010.121 Postal Service request.

(a) In every instance in which the Postal Service determines to exercise its statutory authority to adjust rates for a class of mail, the Postal Service shall comply with the requirements specified in paragraphs (b) through (d) of this section.

(b) The Postal Service shall take into consideration how the planned rate adjustments are designed to help achieve the objectives listed in 39 U.S.C. 3622(b) and take into account the factors listed in 39 U.S.C. 3622(c).

(c) The Postal Service shall provide public notice of its request and planned rates in a manner reasonably designed to inform the mailing community and the general public that it intends to adjust rates no later than 90 days prior to the intended implementation date of the rate adjustment.

(d) The Postal Service shall transmit a request to review its notice of rate adjustment to the Commission no later than 90 days prior to the intended implementation date of the rate adjustment.

§ 3010.122 Contents of a request.

(a) The request shall include the items specified in paragraphs (b) through (j) of this section.

(b) A representation or evidence that public notice of the planned changes has been issued or will be issued at least 90 days before the effective date(s) for the planned rates.

(c) The intended effective date(s) of the planned rates.

(d) A schedule of the planned rates, including a schedule identifying every change to the Mail Classification Schedule that will be necessary to implement the planned rate adjustments.

(e) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.

(f) The supporting technical documentation as described in § 3010.123.

(g) A demonstration that the planned rate adjustments are consistent with 39 U.S.C. 3626, 3627, and 3629.

(h) A certification that all cost, avoided cost, volume, and revenue figures submitted with the request are developed from the most recent applicable Commission approved analytical principles.

(i) For a rate adjustment that only includes a decrease in rates, a statement of whether the Postal Service elects to generate unused rate adjustment authority.

(j) Such other information as the Postal Service believes will assist the Commission to issue a timely determination of whether the planned rate adjustments are consistent with applicable statutory policies.

§ 3010.123 Supporting technical documentation.

(a) Supporting technical documentation shall include the items specified in paragraphs (b) through (j) of this section, as applicable to the specific request. This information must be supported by workpapers in which all calculations are shown and all relevant values (*e.g.,* rates, CPI–U values, billing determinants) are identified with citations to original sources. The information must be submitted in machine readable, electronic format. Spreadsheet cells must be linked to underlying data sources or calculations (not hard coded), as appropriate.

(b) The maximum rate adjustment authority, by class, as summarized by § 3010.127 and calculated separately for each of subparts C through G of this part, as appropriate.

(c) A schedule showing the banked rate adjustment authority available, by class, and the available amount for each of the preceding 5 years calculated as required by subpart G of this part.

(d) The calculation of the percentage change in rates, by class, calculated as required by § 3010.128.

(e) The amount of new unused rate adjustment authority, by class, if any, that will be generated by the rate adjustment calculated as required by subpart G of this part, as applicable.

(f) A schedule of the workshare discounts included with the planned rates, and a companion schedule listing the avoided costs that underlie each such discount.

(g) Whenever the Postal Service establishes a new workshare discount rate, it must include with its filing:

(1) A statement explaining its reasons for establishing the discount;

(2) All data, economic analyses, and other information relied on to justify the discount; and

(3) A certification based on comprehensive, competent analyses that the discount will not adversely affect either the rates or the service levels of users of postal services who do not take advantage of the discount.

(h) Whenever the Postal Service establishes a new discount or surcharge rate it does not view as creating a workshare discount, it must include with its filing:

(1) An explanation of the basis for its view that the discount or surcharge rate is not a workshare discount; and

(2) A certification that the Postal Service applied approved analytical principles to the discount or surcharge rate.

(i) Whenever the Postal Service includes a rate incentive with its planned rate adjustment, it must include with its filing:

(1) If the rate incentive is a rate of general applicability, sufficient information to demonstrate that the rate incentive is a rate of general applicability; and

(2) A statement of whether the Postal Service has excluded the rate incentive from the calculation of the percentage change in rates under § 3010.128.

(j) For each class or product where the attributable cost for that class or product exceeded the revenue from that class or product as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653, a demonstration that the planned rates comply with the requirements in subpart F of this part.

§ 3010.124 Docket and notice.

(a) The Commission will establish a docket for each rate adjustment filed by the Postal Service, promptly publish notice of the filing in the **Federal Register**, and post the filing on its Web site. The notice shall include the items specified in paragraphs (b) through (g) of this section.

(b) The general nature of the proceeding.

(c) A reference to legal authority under which the proceeding is to be conducted.

(d) A concise description of the planned changes in rates, fees, and the Mail Classification Schedule.

(e) The identification of an officer of the Commission to represent the interests of the general public in the docket.

(f) A period of 30 days from the date of the filing for public comment.

(g) Such other information as the Commission deems appropriate.

§ 3010.125 Opportunity for comments.

Public comments should focus on whether planned rate adjustments comport with applicable statutory and regulatory requirements.

§ 3010.126 Proceedings.

(a) If the Commission determines that the request does not substantially comply with the requirements of §§ 3010.122 and 3010.123, the Commission may:

(1) Inform the Postal Service of the deficiencies and provide an opportunity for the Postal Service to take corrective action;

(2) Toll or otherwise modify the procedural schedule until such time the Postal Service takes corrective action;

(3) Dismiss the request without prejudice; or

(4) Take other action as deemed appropriate by the Commission.

(b) Within 21 days of the conclusion of the public comment period the Commission will determine, at a minimum, whether the planned rate adjustments are consistent with applicable law, *e.g.,* the maximum rate adjustment authority as summarized by § 3010.127, and calculated pursuant to subparts C through G of this part, as applicable, the non-compensatory classes and products requirements pursuant to subpart F of this part, the workshare discount limitations pursuant to subpart I of this part, and 39 U.S.C. 3626, 3627, and 3629, and issue an order announcing its findings.

(c) If the planned rate adjustments are found consistent with applicable law, they may take effect.

(d) If planned rate adjustments are found inconsistent with applicable law, the Commission will notify and require the Postal Service to respond to any issues of noncompliance.

(e) Following the Commission's notice of noncompliance, the Postal Service may submit an amended request that describes the modifications to its planned rate adjustments that will bring its rate adjustments into compliance. An amended request shall be accompanied by sufficient explanatory information to show that all deficiencies identified by the Commission have been corrected.

(f) The Commission will allow a period of 10 days from the date of the filing of an amended request for public comment.

(g) The Commission will review the amended request together with any comments filed for compliance and within 21 days issue an order announcing its findings.

(h) If the planned rate adjustments as amended are found to be consistent with applicable law, they may take effect. However, no amended rate shall take effect until 45 days after the Postal Service files its request specifying that rate.

(i) If the planned rate adjustments in an amended request are found to be inconsistent with applicable law, the Commission shall explain the basis of its determination and suggest an appropriate remedy. Noncompliant rates may not go into effect.

(j) A Commission finding that a planned rate adjustment is in compliance with the maximum rate adjustment authority as summarized by § 3010.127 and calculated pursuant to subparts C through G of this part, as applicable, the workshare discount limitations pursuant to subpart I of this part, and 39 U.S.C. 3626, 3627, and 3629 is decided on the merits. A Commission finding that a planned rate adjustment does not contravene other policies of 39 U.S.C. chapter 36, subchapter I is provisional and subject to subsequent review.

§ 3010.127 Maximum rate adjustment authority.

(a) The maximum rate adjustment authority available to the Postal Service for each class of market dominant mail is limited to the sum of the percentage points developed in:

(1) Subpart C— Consumer Price Index Rate Authority;

(2) Subpart D—Supplemental Rate Authority;

(3) Subpart E—Performance-Based Rate Authority;

(4) Subpart F—Non-compensatory Classes or Products; and

(5) Subpart G—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority.

(b) For any product where the attributable cost for that product exceeded the revenue from that product as determined in the most recent Annual Compliance Determination, rates may not be reduced.

§ 3010.128 Calculation of percentage change in rates.

(a) For the purpose of calculating the percentage change in rates, the current rate is the rate in effect when the Postal Service files the request with the following exceptions.

(1) A seasonal or temporary rate shall be identified and treated as a rate cell separate and distinct from the corresponding non-seasonal or permanent rate. When used with respect to a seasonal or temporary rate, the current rate is the most recent rate in effect for the rate cell, regardless of whether the seasonal or temporary rate is available at the time the Postal Service files the request.

(2) When used with respect to a rate cell that corresponds to a rate incentive that was previously excluded from the calculation of the percentage change in rates, the current rate is the full undiscounted rate in effect for the rate cell at the time of the filing of the request, not the discounted rate in effect for the rate cell at such time.

(b) For the purpose of calculating the percentage change in rates, the volumes for each rate cell shall be obtained from the most recent available 12 months of Postal Service billing determinants with the following permissible adjustments.

(1) The Postal Service shall make reasonable adjustments to the billing determinants to account for the effects of classification changes such as the introduction, deletion, or redefinition of rate cells. The Postal Service shall identify and explain all adjustments. All information and calculations relied upon to develop the adjustments shall be provided together with an explanation of why the adjustments are appropriate.

(2) Whenever possible, adjustments shall be based on known mail characteristics or historical volume data, as opposed to forecasts of mailer behavior.

(3) For an adjustment accounting for the effects of the deletion of a rate cell when an alternate rate cell is not available, the Postal Service should adjust the billing determinants associated with the rate cell to zero. If the Postal Service does not adjust the billing determinants for the rate cell to zero, the Postal Service shall include a rationale for its treatment of the rate cell with the information required under paragraph (b)(1) of this section.

(c) For a rate adjustment that involves a rate increase, for each class of mail and product within the class, the percentage change in rates is calculated in three steps. First, the volume of each rate cell in the class is multiplied by the planned rate for the respective cell and the resulting products are summed. Second, the same set of rate cell volumes are multiplied by the corresponding current rate for each cell and the resulting products are summed. Third, the percentage change in rates is calculated by dividing the results of the first step by the results of the second step and subtracting 1 from the quotient. The result is expressed as a percentage.

(d) For rate adjustments that only involve a rate decrease, for each class of mail and product within the class, the percentage change in rates is calculated by amending the workpapers attached to the Commission's order relating to the most recent request to adjust rates that involved a rate increase to replace the planned rates under the most recent request that involves a rate increase with the corresponding planned rates applicable to the class from the request involving only a rate decrease.

(e) The formula for calculating the percentage change in rates for a class described in paragraph (c) of this section is as follows:

Percentage change in rates =

$$\left(\sum_{i=1}^{N}(R_{i,n})(V_i)/\sum_{i=1}^{N}(R_{i,c})(V_i)\right)-1$$

Where:

N = number of rate cells in the class

i = denotes a rate cell (i = 1, 2,. . ., N)

Ri,n = planned rate of rate cell i

Ri,c = current rate of rate cell i (for rate adjustment involving a rate increase) or rate from most recent rate adjustment involving a rate increase for rate cell i (for a rate adjustment only involving a rate decrease)

Vi = volume of rate cell i

(f) Treatment of rate incentives.

(1) Rate incentives may be excluded from a percentage change in rates calculation. If the Postal Service elects to exclude a rate incentive from a percentage change in rates calculation, the rate incentive shall be treated in the same manner as a rate under a negotiated service agreement (as described in § 3010.128(g)).

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can be easily translated into a discount;

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior); and

(iii) The rate incentive is a rate of general applicability.

(g) Treatment of volume associated with negotiated service agreements and rate incentives that are not rates of general applicability.

(1) Mail volumes sent at rates under a negotiated service agreement or a rate incentive that is not a rate of general applicability are to be included in the calculation of percentage change in rates under this section as though they paid the appropriate rates of general applicability. Where it is impractical to identify the rates of general applicability (*e.g.,* because unique rate categories are created for a mailer), the volumes associated with the mail sent under the terms of the negotiated service agreement or the rate incentive that is not a rate of general applicability shall be excluded from the calculation of percentage change in rates.

(2) The Postal Service shall identify and explain all assumptions it makes with respect to the treatment of negotiated service agreements and rate incentives that are not rates of general applicability in the calculation of the percentage change in rates and provide the rationale for its assumptions.

§ 3010.129 Exceptions for de minimis rate increases.

(a) The Postal Service may request review of a de minimis rate increase without immediately calculating the maximum rate adjustment authority or banking unused rate adjustment authority. For this exception to apply, requests to review de minimis rate adjustments must be filed separately from any other request to adjust rates.

(b) Rate adjustments resulting in rate increases are de minimis if:

(1) For each affected class, the rate increases do not result in the percentage change in rates for the class equaling or exceeding 0.001 percent; and

(2) For each affected class, the sum of all rate increases included in de minimis rate increases since the most recent rate adjustment resulting in a rate increase, or the most recent rate adjustment due to extraordinary and exceptional circumstances, that was not a de minimis rate increase does not result in the percentage change in rates for the class equaling or exceeding 0.001 percent.

(c) If the rate adjustments are de minimis, no unused rate adjustment authority will be added to the schedule of banked rate adjustment authority maintained under subpart G of this part as a result of the de minimis rate increase.

(d) If the rate adjustments are de minimis, no rate decreases may be taken into account when determining whether rate increases comply with paragraphs (b)(1) and (2) of this section.

(e) In the next request proposing to increase rates for a class that is not a de minimis rate increase:

(1) The maximum rate adjustment authority shall be calculated as if the de minimis rate increase had not been filed; and

(2) For purposes of calculating the percentage change in rates, the current rate shall be the current rate from the de minimis rate increase.

(f) The Postal Service shall file supporting workpapers with each request to review a de minimis rate increase that demonstrate that the sum of all rate increases included in de

minimis rate increases since the most recent rate adjustment resulting in a rate increase that was not de minimis, or the most recent rate adjustment due to extraordinary and exceptional circumstances, does not result in a percentage change in rates for the class equaling or exceeding 0.001 percent.

(g) For any product where the attributable cost for that product exceeded the revenue from that product as determined in the most recent Annual Compliance Determination, rates may not be reduced.

Subpart C—Consumer Price Index Rate Authority

§ 3010.140 Applicability.

The Postal Service may adjust rates based upon changes in the consumer price index identified in § 3010.141. If requests involving rate increases are filed 12 or more months apart, rate adjustments are subject to a full year limitation calculated pursuant to § 3010.142. If requests involving rate increases are filed less than 12 months apart, rate adjustments are subject to a partial year limitation calculated pursuant to § 3010.143.

§ 3010.141 CPI–U data source.

The monthly CPI–U values needed for the calculation of rate adjustment limitations under this section shall be obtained from the Bureau of Labor Statistics (BLS) Consumer Price Index—All Urban Consumers, U.S. All Items, Not Seasonally Adjusted, Base Period 1982–84 = 100. The current Series ID for the index is ''CUUR0000SA0.''

§ 3010.142 CPI–U rate authority when requests are 12 or more months apart.

(a) If a request involving a rate increase is filed 12 or more months after the most recent request involving a rate increase, then the calculation of an annual limitation for the class (full year limitation) involves three steps. First, a simple average CPI–U index is calculated by summing the most recently available 12 monthly CPI–U values from the date the Postal Service files its request and dividing the sum by 12 (Recent Average). Second, a second simple average CPI–U index is similarly calculated by summing the 12 monthly CPI–U values immediately preceding the Recent Average and dividing the sum by 12 (Base Average). Third, the full year limitation is calculated by dividing the Recent Average by the Base Average and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(b) The formula for calculating a full year limitation for a request filed 12 or more months after the last request is as follows: Full Year Limitation = (Recent Average/Base Average) − 1.

§ 3010.143 CPI–U rate authority when requests are less than 12 months apart.

(a) If a request involving a rate increase is filed less than 12 months after the most recent request involving a rate increase, then the annual limitation for the class (partial year limitation) will recognize the rate increases that have occurred during the preceding 12 months. When the effects of those increases are removed, the remaining partial year limitation is the applicable restriction on rate increases.

(b) The applicable partial year limitation is calculated in two steps. First, a simple average CPI–U index is calculated by summing the 12 most recently available monthly CPI–U values from the date the Postal Service files its request and dividing the sum by 12 (Recent Average). Second, the partial year limitation is then calculated by dividing the Recent Average by the Recent Average from the most recent previous request (Previous Recent Average) applicable to each affected class of mail and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(c) The formula for calculating the partial year limitation for a request filed less than 12 months after the last request is as follows: Partial Year Limitation = (Recent Average/Previous Recent Average) − 1.

Subpart D—Supplemental Rate Authority

§ 3010.160 Applicability.

(a) This subpart allocates supplemental rate authority of 2 percentage points per class per annum. The rate authority provided in this subpart is available in each of the first 5 full calendar years following the effective date of these rules.

(b) Any rate authority allocated under this subpart:

(1) Shall be made available to the Postal Service as of January 1 of each calendar year;

(2) Must be included in the calculation of the maximum rate adjustment authority in the first generally applicable rate adjustment filed in any calendar year;

(3) Shall lapse if not used in the first generally applicable rate adjustment filed in any calendar year;

(4) Shall lapse if unused, on December 31 of the applicable calendar year; and

(5) May not be used to generate unused rate authority, nor shall it affect existing banked rate authority.

Subpart E—Performance-Based Rate Authority

§ 3010.180 Applicability.

(a) This subpart allocates performance-based rate authority of up to 1 percentage point for each class of mail, which is available upon meeting or exceeding an operational efficiency-based standard and adhering to service quality-related criteria as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653. Of this rate authority, 0.75 percentage points is allocated based on meeting the operational efficiency-based rate authority requirements appearing in § 3010.181. Of this rate authority, 0.25 percentage points is allocated based on meeting the service quality-based rate authority requirements appearing in § 3010.182.

(b) Any rate authority allocated under this subpart:

(1) Shall be made available to the Postal Service as of January 1 of each calendar year as determined by the most recent Annual Compliance Determination;

(2) Must be included in the calculation of the maximum rate adjustment authority in the first generally applicable rate adjustment filed in any calendar year;

(3) Shall lapse if not used in the first generally applicable rate adjustment filed in any calendar year;

(4) Shall lapse if unused, on December 31 of the applicable calendar year; and

(5) May not be used to generate unused rate authority, nor shall it affect existing banked rate authority.

§ 3010.181 Operational efficiency-based rate authority.

Operational efficiency-based rate authority shall be allocated for each class of mail if the Postal Service's average annual total factor productivity growth over the most recent 5 years meets or exceeds 0.6 percent as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653.

§ 3010.182 Service quality-based rate authority.

(a) Service quality-based rate authority shall be allocated for a class of mail if all of the Postal Service's service standards (including applicable business rules) for that class during the applicable fiscal year meet or exceed the service standards in place for the prior fiscal year on a nationwide or

substantially nationwide basis as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653.

(b) Any interested person may file a challenge to the Commission's determination to allocate service quality-based rate authority within 30 days of the Commission issuing the Annual Compliance Determination. The scope of such a challenge shall be limited to whether or not the Postal Service's service standards (including applicable business rules) during the applicable fiscal year met or exceeded the service standards in place for the prior fiscal year on a nationwide or substantially nationwide basis. The Commission shall issue an order which rules on any challenge within 60 days of the filing of the challenge. The order shall specify how much, if any, service quality-based rate authority is authorized for the upcoming calendar year.

Subpart F—Non-Compensatory Classes or Products

§ 3010.200 Applicability.

This subpart is applicable to a class or product where the attributable cost for that class or product exceeded the revenue from that class or product as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653. Section 3010.201 is applicable where the attributable cost for a product within a class, exceeded the revenue from that particular product. Section 3010.202 is applicable where the attributable cost for an entire class exceeded the revenue from that class.

§ 3010.201 Individual product requirement.

Whenever the Postal Service files a request affecting a class of mail which includes a product where the attributable cost for that product exceeded the revenue from that product, as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653, the Postal Service shall increase the rates for that product by a minimum of 2 percentage points above the percentage increase for that class. This section does not create additional rate authority applicable to any class of mail.

§ 3010.202 Class requirement and additional class rate authority.

(a) This section provides 2 percentage points of additional rate authority for any class of mail where the attributable cost for that class exceeded the revenue from that class as determined by the most recent Annual Compliance Determination issued pursuant to 39 U.S.C. 3653.

(b) When the Postal Service files the first generally applicable rate adjustment in any calendar year affecting a class of mail where the attributable cost for that class exceeded the revenue from that class, the Postal Service must use all available rate authority, including consumer price index rate authority, supplemental rate authority, performance-based rate authority and banked rate authority, plus an additional 2 percentage points.

(c) Any rate authority allocated under this subpart:

(1) Shall be made available to the Postal Service as of January 1 of each calendar year as determined by the most recent Annual Compliance Determination;

(2) Must be included in the calculation of the maximum rate adjustment authority change in rates in the first generally applicable rate adjustment filed in any calendar year;

(3) Shall lapse if unused, on December 31 of the applicable calendar year; and

(4) May not be used to generate unused rate authority, nor shall it affect existing banked rate authority.

Subpart G—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority

§ 3010.220 General.

Unless a specific exception applies, unused rate adjustment authority, on a class-by-class basis, shall be calculated for each request filed by the Postal Service. Unused rate adjustment authority shall be added to the schedule of banked rate authority in each instance, and be available for application to rate adjustments pursuant to the requirements of this subpart.

§ 3010.221 Schedule of banked rate adjustment authority.

Upon the establishment of unused rate adjustment authority, the Postal Service shall devise and maintain a schedule that tracks the establishment and subsequent use of banked rate authority on a class-by-class basis. At a minimum, the schedule must track the amount of banked rate authority available immediately prior to the filing of a request and the amount of banked rate authority available upon acceptance of the rates included in the request. It shall also track all changes to the schedule, including the docket numbers of Commission decisions affecting the schedule, the dates and amounts that any rate authority was generated or subsequently expended, and the expiration dates of all rate adjustment authority. The schedule shall be included with any request purporting to modify the amount of banked rate adjustment authority.

§ 3010.222 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed 12 months apart or less.

(a) When requests that involve a rate increase are filed 12 months apart or less, unused rate adjustment authority for a class is equal to the difference between the maximum rate adjustment authority as summarized by § 3010.127 and calculated pursuant to subparts C through G of this part, as appropriate, and the percentage change in rates for the class calculated pursuant to § 3010.128, subject to the limitations described in paragraphs (b) and (c) of this section.

(b) Unused rate adjustment authority cannot be generated and is assumed to be 0 percent for classes subject to § 3010.202, Class requirement and additional class rate authority.

(c) For requests that involve a rate increase, unused rate adjustment authority cannot exceed the unused portion of rate authority determined pursuant to subpart C of this part, Consumer Price Index Rate Authority.

§ 3010.223 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed more than 12 months apart.

(a) When requests that involve a rate increase are filed more than 12 months apart, any interim rate adjustment authority must first be added to the schedule of banked rate authority before the unused rate adjustment authority is calculated.

(b) Interim rate adjustment authority for a class is equal to the Base Average applicable to the second request (as developed pursuant to § 3010.142) divided by the Recent Average utilized in the first request (as developed pursuant to § 3010.142) and subtracting 1 from the quotient. The result is expressed as a percentage and immediately added to the schedule of banked rate authority as of the date the request is filed.

(c) Unused rate adjustment authority for a class is equal to the difference between the maximum rate adjustment authority as summarized by § 3010.127 and calculated pursuant to subparts C through G of this part, as appropriate, and the percentage change in rates for the class calculated pursuant to § 3010.128, subject to the limitations described in paragraphs (d) and (e) of this section.

(d) Unused rate adjustment authority cannot be generated and is assumed to be 0 percent for classes subject to § 3010.202, Class requirement and additional class rate authority.

(e) For requests that involve a rate increase, unused rate adjustment authority cannot exceed the unused portion of rate authority determined pursuant to subpart C of this part, Consumer Price Index Rate Authority.

§ 3010.224 Calculation of unused rate adjustment authority for rate adjustments that only include rate decreases.

(a) For requests that only include rate decreases, unused rate adjustment authority for a class is calculated in two steps. First, the difference between the maximum rate adjustment authority as summarized by § 3010.127 and calculated pursuant to subparts C through G of this part, as appropriate for the most recent rate adjustment that involves a rate increase and the percentage change in rates for the class calculated pursuant to § 3010.128(d) is calculated. Second, the unused rate adjustment authority generated in the most recent rate adjustment that involves a rate increase is subtracted from that result.

(b) Unused rate adjustment authority generated under paragraph (a) of this section for a class shall be added to the unused rate adjustment authority generated in the most recent rate adjustment that involves a rate increase on the schedule maintained under § 3010.221. For purposes of § 3010.224, the unused rate adjustment authority generated under paragraph (a) of this section for a class shall be deemed to have been added to the schedule maintained under § 3010.221 on the same date as the most recent request that involves a rate increase.

(c) For requests that only include rate decreases, the sum of unused rate adjustment authority generated under paragraph (a) of this section and the unused rate adjustment authority generated in the most recent rate adjustment that involves a rate increase cannot exceed the unused portion of rate adjustment authority determined pursuant to subpart C of this part, Rate Authority Based Upon Consumer Price Index in the most recent rate adjustment that involves a rate increase.

(d) Unused rate adjustment authority generated under paragraph (a) of this section shall be subject to the limitation under § 3010.225, regardless of whether it is used alone or in combination with other existing unused rate adjustment authority.

(e) For requests that only include rate decreases, unused rate adjustment authority generated under this section lapses 5 years from the date of filing of the most recent request that involves a rate increase.

(f) A request that only includes rate decreases that is filed immediately after a rate adjustment due to extraordinary or exceptional circumstances (*i.e.,* without an intervening rate adjustment involving a rate increase) may not generate unused rate adjustment authority.

§ 3010.225 Application of banked rate authority.

(a) Banked rate authority may be applied to any planned rate adjustment subject to the limitations appearing in (b) through (f) of this section.

(b) Banked rate authority may only be applied to a proposal to adjust rates after applying rate authority based upon the consumer price index pursuant to subpart C of this part, supplemental rate authority subject to subpart D of this part, the performance-based rate authority pursuant to subpart E of this part, and the rate authority applicable to non-compensatory classes pursuant to subpart F of this part.

(c) A maximum of 2 percentage points of banked rate authority may be applied to a rate adjustment for any class in any 12-month period. If banked rate authority is used, it shall be subtracted from the schedule of banked rate adjustment authority as of the date of the final order accepting the rates.

(d) Subject to (b) and (c) of this section, interim rate adjustment authority may be used to make a rate adjustment pursuant to the request that led to its calculation. If interim rate adjustment authority is used to make such a rate adjustment, the interim rate adjustment authority generated pursuant to the request shall first be added to the schedule of banked rate adjustment authority pursuant to § 3010.221 as the most recent entry. Then, any interim rate adjustment authority used in accordance with this paragraph shall be subtracted from the existing banked rate adjustment authority using a first-in, first-out (FIFO) method, beginning 5 years before the instant request.

(e) Banked rate authority for a class must be applied, using a first-in, first-out (FIFO) method, beginning 5 years before the instant request.

(f) Banked rate adjustment authority calculated under this section shall lapse 5 years from the date of filing of the request leading to its calculation.

Subpart H—Rate Adjustments Due to Extraordinary and Exceptional Circumstances

§ 3010.240 General.

The Postal Service may request to adjust rates for market dominant products due to extraordinary or exceptional circumstances pursuant to 39 U.S.C. 3622(d)(1)(E). The rate adjustments are not subject to rate adjustment limitations or the restrictions on the use of unused rate adjustment authority. The rate adjustment request may not include material classification changes. The request is subject to public participation and Commission review within 90 days.

§ 3010.241 Contents of a request.

(a) Each exigent request shall include the items specified in paragraphs (b) through (i) of this section.

(b) A schedule of the planned rates.

(c) Calculations quantifying the increase for each affected product and class.

(d) A full discussion of the extraordinary or exceptional circumstances giving rise to the request, and a complete explanation of how both the requested overall increase and the specific rate adjustments requested relate to those circumstances.

(e) A full discussion of why the requested rate adjustments are necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

(f) A full discussion of why the requested rate adjustments are reasonable and equitable as among types of users of market dominant products.

(g) An explanation of when, or under what circumstances, the Postal Service expects to be able to rescind the exigent rate adjustments in whole or in part.

(h) An analysis of the circumstances giving rise to the exigent request, which should, if applicable, include a discussion of whether the circumstances were foreseeable or could have been avoided by reasonable prior action.

(i) Such other information as the Postal Service believes will assist the Commission to issue a timely determination of whether the requested rate adjustments are consistent with applicable statutory policies.

§ 3010.242 Supplemental information.

The Commission may require the Postal Service to provide clarification of its request or to provide additional information in order to gain a better understanding of the circumstances

leading to the request or the justification for the specific rate adjustments requested. The Postal Service shall include within its request the identification of one or more knowledgeable Postal Service official(s) who will be available to provide prompt responses to Commission requests for clarification or additional information.

§ 3010.243 Docket and notice.

(a) The Commission will establish a docket for each request to adjust rates due to extraordinary or exceptional circumstances, publish notice of the request in the **Federal Register**, and post the filing on its Web site. The notice shall include the items specified in paragraphs (b) through (g) of this section.

(b) The general nature of the proceeding.

(c) A reference to legal authority under which the proceeding is to be conducted.

(d) A concise description of the proposals for changes in rates, fees, and the Mail Classification Schedule.

(e) The identification of an officer of the Commission to represent the interests of the general public in the docket.

(f) A specified period for public comment.

(g) Such other information as the Commission deems appropriate.

§ 3010.244 Public hearing.

(a) The Commission will hold a public hearing on the Postal Service request. During the public hearing, responsible Postal Service officials will appear and respond under oath to questions from the Commissioners or their designees addressing previously identified aspects of the Postal Service's request and supporting information.

(b) Interested persons will be given an opportunity to submit to the Commission suggested relevant questions that might be posed during the public hearing. Such questions, and any explanatory materials submitted to clarify the purpose of the questions, should be filed in accordance with § 3001.9 of this chapter, and will become part of the administrative record of the proceeding.

(c) The timing and length of the public hearing will depend on the nature of the circumstances giving rise to the request and the clarity and completeness of the supporting materials provided with the request.

(d) If the Postal Service is unable to provide adequate explanations during the public hearing, supplementary written or oral responses may be required.

§ 3010.245 Opportunity for comments.

(a) Following the conclusion of the public hearings and submission of any supplementary materials, interested persons will be given the opportunity to submit written comments on:

(1) The sufficiency of the justification for an exigent rate adjustment;

(2) The adequacy of the justification for adjustments in the amounts requested by the Postal Service; and

(3) Whether the specific rate adjustments requested are reasonable and equitable.

(b) An opportunity to submit written reply comments will be given to the Postal Service and other interested persons.

§ 3010.246 Deadline for Commission decision.

Requests under this subpart seek rate relief required by extraordinary or exceptional circumstances and will be treated with expedition at every stage. It is Commission policy to provide appropriate relief as quickly as possible consistent with statutory requirements and procedural fairness. The Commission will act expeditiously on the Postal Service request, taking into account all written comments. In every instance a Commission decision will be issued within 90 days of the filing of an exigent request.

§ 3010.247 Treatment of banked rate adjustment authority.

(a) Each request will identify the banked rate adjustment authority available as of the date of the request for each class of mail and the available amount for each of the preceding 5 years.

(b) Rate adjustments may use existing banked rate adjustment authority in amounts greater than the limitations described in § 3010.225.

(c) Increases will exhaust all banked rate adjustment authority for each class of mail before imposing additional rate adjustments in excess of the maximum rate adjustment for any class of mail.

Subpart I—Workshare Discounts

§ 3010.260 Applicability.

This subpart establishes bands for the percentages of avoided costs that may be passed through to a customer in the form of a workshare discount. For the purpose of this subpart, the percentage passthrough for any workshare discount shall be calculated by dividing the workshare discount by the cost avoided by the Postal Service for not providing the applicable service and expressing the result as a percentage.

§ 3010.261 Passthrough requirement.

(a) Except as provided in § 3010.262, all percentage passthroughs for workshare discounts must be set within the bands as specified in paragraphs (b) through (c) of this section.

(b) 75 percent to 125 percent for Periodicals.

(c) 85 percent to 115 percent for all other classes.

§ 3010.262 Exceptions for noncompliant discounts.

(a) For workshare discounts in existence on the effective date of this subpart that do not comply with the requirements of § 3010.261, there shall be a 3 year grace period from the effective date of this subpart to bring the applicable percentage passthroughs into compliance with the requirements of § 3010.261.

(b) For new workshare discounts established after the effective date of this subpart that do not comply with the requirements of § 3010.261, there shall be a 3 year grace period from the establishment of the new workshare discount to bring the applicable percentage passthroughs into compliance with the requirements of § 3010.261.

(c) In each request proposing to adjust a rate associated with a workshare discount subject to the exceptions in paragraphs (a) or (b) of this section, the Postal Service shall submit a plan to bring the percentage passthroughs into compliance with the requirements of § 3010.261 prior to the expiration of the exception.

PART 3020—PRODUCT LISTS

■ 2. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 3. Add subpart G to read as follows:

Subpart G—Requests for Market Dominant Negotiated Service Agreements

Sec.
3020.120 General.
3020.121 Additional supporting justification for negotiated service agreements.
3020.122 Data collection plan and report for negotiated service agreements.

§ 3020.120 General.

This subpart imposes additional requirements whenever there is a request to add a negotiated service agreement to the market dominant product list. The additional supporting justification appearing in § 3020.121 also should be provided whenever the

Postal Service proposes to modify the terms of an existing market dominant negotiated service agreement. Commission findings that the addition of a special classification is not inconsistent with 39 U.S.C. 3622 are provisional and subject to subsequent review. No rate(s) shall take effect until 45 days after the Postal Service files a request for review of a notice of a new rate or rate(s) adjustment specifying the rate(s) and the effective date.

§ 3020.121 Additional supporting justification for negotiated service agreements.

(a) Each request shall also include the items specified in paragraphs (b) through (j) of this section.

(b) A copy of the negotiated service agreement.

(c) The planned effective date(s) of the planned rates.

(d) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.

(e) A statement identifying all parties to the agreement and a description clearly explaining the operative components of the agreement.

(f) Details regarding the expected improvements in the net financial position or operations of the Postal Service (39 U.S.C. 3622(c)(10)(A)(i) and (ii)). The projection of change in net financial position as a result of the agreement shall be based on accepted analytical principles. The projection of change in net financial position as a result of the agreement shall include for each year of the agreement:

(1) The estimated mailer-specific costs, volumes, and revenues of the Postal Service absent the implementation of the negotiated service agreement;

(2) The estimated mailer-specific costs, volumes, and revenues of the Postal Service which result from implementation of the negotiated service agreement;

(3) An analysis of the effects of the negotiated service agreement on the contribution to institutional costs from mailers not party to the agreement;

(4) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, together with a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs; and

(5) If the Postal Service believes the Commission's accepted analytical principles are not the most accurate and reliable methodology available:

(i) An explanation of the basis for that belief; and

(ii) A projection of the change in net financial position resulting from the agreement made using the Postal Service's alternative methodology.

(g) An identification of each component of the agreement expected to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement, and a discussion of the nature and expected impact of each such enhancement.

(h) Details regarding any and all actions (performed or to be performed) to assure that the agreement will not result in unreasonable harm to the marketplace (39 U.S.C. 3622(c)(10)(B)).

(i) A discussion in regard to how functionally similar negotiated service agreements will be made available on public and reasonable terms to similarly situated mailers.

(j) Such other information as the Postal Service believes will assist the Commission to issue a timely determination of whether the requested changes are consistent with applicable statutory policies.

§ 3020.122 Data collection plan and report for negotiated service agreements.

(a) The Postal Service shall include with any request concerning a negotiated service agreement a detailed plan for providing data or information on actual experience under the agreement sufficient to allow evaluation of whether the negotiated service agreement operates in compliance with 39 U.S.C. 3622(c)(10).

(b) A data report under the plan is due 60 days after each anniversary date of implementation and shall include, at a minimum, the following information for each 12-month period the agreement has been in effect:

(1) The change in net financial position of the Postal Service as a result of the agreement. This calculation shall include for each year of the agreement:

(i) The actual mailer-specific costs, volumes, and revenues of the Postal Service;

(ii) An analysis of the effects of the negotiated service agreement on the net overall contribution to the institutional costs of the Postal Service; and

(iii) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, including a discussion of the currency and reliability of those costs, and their suitability as a proxy for the mailer-specific costs.

(2) A discussion of the changes in operations of the Postal Service that have resulted from the agreement. This shall include, for each year of the agreement, identification of each component of the agreement known to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement.

(3) An analysis of the impact of the negotiated service agreement on the marketplace, including a discussion of any and all actions taken to protect the marketplace from unreasonable harm.

PART 3050—PERIODIC REPORTING

■ 4. The authority citation for part 3050 continues to read as follows:

Authority: 39 U.S.C. 503; 3651; 3652; 3653.

■ 5. Amend § 3050.20 by revising paragraph (c) to read as follows:

§ 3050.20 Compliance and other analyses in the Postal Service's section 3652 report.

* * * * *

(c) It shall address such matters as non-compensatory rates and failures to achieve stated goals for on-time delivery standards. A more detailed analysis is required when the Commission observed and commented upon the same matter in its Annual Compliance Determination for the previous fiscal year.

PART 3055—SERVICE PERFORMANCE AND CUSTOMER SATISFACTION REPORTING

■ 6. The authority citation for part 3055 continues to read as follows:

Authority: 39 U.S.C. 503; 3622(a); 3652(d) and (e); 3657(c).

■ 7. Amend § 3055.2 by revising paragraph (c) to read as follows:

§ 3055.2 Contents of the annual report of service performance achievements.

* * * * *

(c) The applicable service standard(s) for each product. If there has been a change to a service standard(s) since the previous report, a description of and reason for the change shall be provided. If there have been no changes to service standard(s) since the previous report, a certification stating this fact shall be provided.

* * * * *

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Part III

The President

Proclamation 9683—Recognizing Jerusalem as the Capital of the State of Israel and Relocating the United States Embassy to Israel to Jerusalem

Federal Register
Vol. 82, No. 236
Monday, December 11, 2017

Presidential Documents

Title 3—

The President

Proclamation 9683 of December 6, 2017

Recognizing Jerusalem as the Capital of the State of Israel and Relocating the United States Embassy to Israel to Jerusalem

By the President of the United States of America

A Proclamation

The foreign policy of the United States is grounded in principled realism, which begins with an honest acknowledgment of plain facts. With respect to the State of Israel, that requires officially recognizing Jerusalem as its capital and relocating the United States Embassy to Israel to Jerusalem as soon as practicable.

The Congress, since the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), has urged the United States to recognize Jerusalem as Israel's capital and to relocate our Embassy to Israel to that city. The United States Senate reaffirmed the Act in a unanimous vote on June 5, 2017.

Now, 22 years after the Act's passage, I have determined that it is time for the United States to officially recognize Jerusalem as the capital of Israel. This long overdue recognition of reality is in the best interests of both the United States and the pursuit of peace between Israel and the Palestinians.

Seventy years ago, the United States, under President Truman, recognized the State of Israel. Since then, the State of Israel has made its capital in Jerusalem—the capital the Jewish people established in ancient times. Today, Jerusalem is the seat of Israel's government—the home of Israel's parliament, the Knesset; its Supreme Court; the residences of its Prime Minister and President; and the headquarters of many of its government ministries. Jerusalem is where officials of the United States, including the President, meet their Israeli counterparts. It is therefore appropriate for the United States to recognize Jerusalem as Israel's capital.

I have also determined that the United States will relocate our Embassy to Israel from Tel Aviv to Jerusalem. This action is consistent with the will of the Congress, as expressed in the Act.

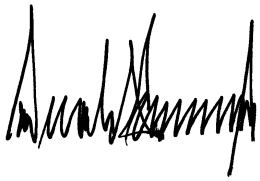
Today's actions—recognizing Jerusalem as Israel's capital and announcing the relocation of our embassy—do not reflect a departure from the strong commitment of the United States to facilitating a lasting peace agreement. The United States continues to take no position on any final status issues. The specific boundaries of Israeli sovereignty in Jerusalem are subject to final status negotiations between the parties. The United States is not taking a position on boundaries or borders.

Above all, our greatest hope is for peace, including through a two-state solution, if agreed to by both sides. Peace is never beyond the grasp of those who are willing to reach for it. In the meantime, the United States continues to support the status quo at Jerusalem's holy sites, including at the Temple Mount, also known as Haram al Sharif. Jerusalem is today—and must remain—a place where Jews pray at the Western Wall, where Christians walk the Stations of the Cross, and where Muslims worship at Al-Aqsa Mosque.

With today's decision, my Administration reaffirms its longstanding commitment to building a future of peace and security in the Middle East. It is time for all civilized nations and people to respond to disagreement with reasoned debate—not senseless violence—and for young and moderate voices across the Middle East to claim for themselves a bright and beautiful future. Today, let us rededicate ourselves to a path of mutual understanding and respect, rethinking old assumptions and opening our hearts and minds to new possibilities. I ask the leaders of the Middle East—political and religious; Israeli and Palestinian; and Jewish, Christian, and Muslim—to join us in this noble quest for lasting peace.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim that the United States recognizes Jerusalem as the capital of the State of Israel and that the United States Embassy to Israel will be relocated to Jerusalem as soon as practicable.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth 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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