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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–7290; Special Conditions No. 25–715–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVII–G500 Airplanes; Operation Without Normal Electrical Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation (Gulfstream) Model GVII–G500 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is an electronic flight-control system, the functions of which are dependent upon the airplane's electrical power generation and distribution systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Gulfstream on February 1, 2018. We must receive your comments by March 19, 2018.

ADDRESSES: Send comments identified by docket number FAA–2015–7290 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, FAA, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is unnecessary because the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On March 29, 2012, Gulfstream applied for a type certificate for their new Model GVII–G500 airplane. This transport-category, twin-engine airplane will be a business jet capable of accommodating up to 19 passengers. The maximum takeoff weight is 91,000 lbs.

Type Certification Basis

Under Title 14, Code of Federal Regulations (14 CFR) 21.17, Gulfstream must show that the Model GVII–G500 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* part 25) do not contain adequate or appropriate safety standards for the Model GVII–G500 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, Model GVII–G500 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36. The FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of

the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model GVII–G500 airplane will incorporate the following novel or unusual design feature:

An electronic flight-control system, the functions of which are dependent upon the electrical power-generation and distribution systems, whereby the loss of all electrical power may be catastrophic to the airplane. These special conditions retain the level of safety offered by 14 CFR 25.1351(d).

Discussion

The Gulfstream Aerospace Corporation Model GVII–G500 airplane incorporates a fly-by-wire flight-control system that requires a continuous source of electrical power to keep the flight-control system operable. The current regulation, § 25.1351(d), Amendment 25–72, ''Operation without normal electrical power,'' states that the airplane must be operated safely in visual-flight-rules conditions for a period of not less than five minutes after loss of all normal electrical power. This rule was structured around a traditional design of mechanical control cables for flight control that allowed time for the crew to remedy an electrical failure, start the engine(s) if necessary, and re-establish some or all of the electrical power-generation capability.

To maintain the same level of safety associated with traditional designs, the Model GVII–G500 airplane design must not be time limited in its operation when the airplane is without its normal source of engine- or auxiliary-power-unit-generated electrical power. Service experience has shown that the loss of all electrical power generated by an airplane's engine generators or auxiliary power unit (APU) is not extremely improbable. Likewise, regulations require the applicant to demonstrate that the airplane has the power required for continued safe flight and landing with the use of its emergency electrical power systems. These emergency electrical power systems must be able to power all loads considered essential for continued safe flight and landing.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Model GVII–G500 airplane. Should Gulfstream apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and good cause exists for adopting these special conditions upon publication in the **Federal Register**.

The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Because the total loss of normal, generated, electrical power in two-engine airplanes is not extremely improbable, and because the loss of all electrical power may be catastrophic to airplanes equipped with an electronic flight-control system, the following special conditions apply to Gulfstream Model GVII airplanes.

In lieu of § 25.1351(d), the following special conditions apply:

1. Gulfstream must show, by test or a combination of test and analysis, that the airplane is capable of continued safe flight and landing with all normal electrical power sources inoperative, as prescribed by paragraphs 1.a. and 1.b., below. For purposes of these special conditions, normal sources of electrical-power generation do not include alternate power sources such as the battery, ram-air turbine, or independent power systems such as the flight-control permanent-magnet generating system. In showing capability for continued safe flight and landing, Gulfstream must account for systems capability, effects on crew workload and operating conditions, and the physiological needs of the flightcrew and passengers for the longest diversion time for which Gulfstream is seeking approval.

a. In showing compliance with this requirement, Gulfstream must account for common-cause failures, cascading failures, and zonal physical threats.

b. Gulfstream may consider the ability to restore operation of portions of the electrical power generation and distribution system if it can be shown that unrecoverable loss of those portions of the system is extremely improbable. The design must provide an alternative source of electrical power for the time required to restore the minimum electrical-power generation capability required for safe flight and landing. Gulfstream may exclude unrecoverable loss of all engines when showing compliance with this requirement.

2. Regardless of electrical-power generation and distribution-system recovery capability shown under special condition 1, above, sufficient electrical-system capability must be provided to:

a. Allow time to descend, with all engines inoperative, at the speed that provides the best glide distance, from the maximum operating altitude to the top of the engine-restart envelope, and

b. Subsequently allow multiple start attempts of the engines and auxiliary power unit (APU). The design must provide this capability in addition to the electrical capability required by existing part 25 requirements related to operation with all engines inoperative.

3. The airplane emergency electrical-power system must be designed to supply:

a. Electrical power required for immediate safety, which must continue to operate without the need for crew action following the loss of the normal electrical power, for a duration sufficient to allow reconfiguration to provide a non-time-limited source of electrical power.

b. Electrical power required for continued safe flight and landing for the maximum diversion time.

4. If the applicant uses APU-generated electrical power to satisfy the requirements of these special conditions, and if reaching a suitable runway for landing is beyond the capacity of the battery systems, then the APU must be able to be started under any foreseeable flight condition prior to the depletion of the battery, or the restoration of normal electrical power, whichever occurs first. Flight test must demonstrate this capability at the most critical condition.

a. The applicant must show that the APU will provide adequate electrical power for continued safe flight and landing.

b. The airplane flight manual (AFM) must incorporate abnormal procedures that direct the pilot to take appropriate actions to activate the APU after loss of normal engine-driven generated electrical power.

5. As part of showing compliance with these special conditions, the tests to demonstrate loss of all normal electrical power must also take into account the following:

a. The assumption that the failure condition occurs during night instrument meteorological conditions (IMC) at the most critical phase of the flight, relative to the worst possible electrical-power distribution and equipment-loads-demand condition.

b. After an unrestorable loss of normal engine-driven generated electrical power, the airplane engine-restart capability is provided and operations are continued in IMC.

c. The airplane is demonstrated to be capable of continued safe flight and landing. The duration of this capability must be computed based on the maximum diversion-time capability for which the airplane is being certified. The applicant must account for airspeed reductions resulting from the associated failure or failures.

d. The airplane must provide adequate indication of loss of normal electrical power to direct the pilot to the abnormal procedures, and the AFM must incorporate abnormal procedures that will direct the pilot to take appropriate actions.

Issued in Renton, Washington, on January 11, 2018.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–01963 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0610; Airspace Docket No. 17–ANE–3]

Amendment of Class E Airspace; Carrabassett, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Carrabassett, ME, due to the new arrival procedure established for Sugarloaf Regional Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also updates the geographic coordinates of the airport.

DATES: Effective 0901 UTC, March 29, 2018. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: 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 7400.11A at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This 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 amends Class E airspace at Sugarloaf Regional Airport, Carrabassett, ME, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 38857, August 16, 2017) Docket No. FAA–2017–0610 to amend Class E airspace extending upward from 700 feet or more above the surface at Sugarloaf Regional Airport, Carrabassett, ME.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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 part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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 Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class E airspace extending upward from 700 feet or more above the surface within the 7-mile radius of Sugarloaf Regional Airport, Carrabassett, ME. A 14.3-mile extension to the north is created, extending from the 7-mile radius of the airport for the new RNAV–(GPS–A) approach for the airport, and for continued safety and management of IFR operations.

The geographic coordinates of the airport are adjusted to coincide with the FAA's aeronautical database.

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. Therefore, this regulation: (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 only affects air traffic procedures and air navigation, it is certified that this rule, when

promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, effective September 15, 2017, is amended as follows:

* * * * *

ANE ME E5 Carrabassett, ME [Amended]

Sugarloaf Regional Airport
(Lat. 45°05′08″ N, long. 70°12′59″ W)
Point in Space Coordinates
(Lat. 45°06′26″ N, long. 70°12′30″ W)

That airspace extending upward from 700 feet above the surface of the earth within a 6-mile radius of the Point in Space Coordinates (lat. 45°06′26″ N, long. 70°12′30″ W) serving the Sugarloaf Regional Airport, and within a 7-mile radius of the airport, and within 1 mile each side of the 346° bearing from the airport, extending from the 7-mile radius to 14.3-miles north of the airport.

Issued in College Park, Georgia, on January 22, 2018.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2018–01679 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2017–0043]

16 CFR Part 1112

CPSC Acceptance of Third Party Laboratories: Revision to the Notice of Requirements for Prohibitions of Children's Toys and Child Care Articles Containing Specified Phthalates

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; notice of requirements.

SUMMARY: This final rule updates the notice of requirements (NOR) for the accreditation of third party laboratories to assess conformity with the prohibitions of children's toys and child care articles containing specified phthalates. The NOR provides the criteria and process for Commission acceptance of accreditation under the Consumer Product Safety Act (CPSA). This rule makes the NOR consistent with the regulated phthalates in children's toys and child care articles in the phthalates final rule published in the **Federal Register** on October 27, 2017.

DATES: This rule is effective on April 25, 2018. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register, as of April 25, 2018.

FOR FURTHER INFORMATION CONTACT: Scott R. Heh, Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–504–7646; email: *sheh@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Section 108 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) established requirements concerning concentration limits for specified phthalates in children's toys and child care articles. In accordance with section 108 of the CPSIA, on October 27, 2017, the Commission published a phthalates final rule (phtahalates rule) in the **Federal Register** (82 FR 49938). That final rule made permanent the interim prohibition on children's toys that can be placed in a child's mouth and child care articles that contain concentrations of more than 0.1 percent of diisononyl phthalate (DINP). The phthalates rule extended this prohibition to cover all children's toys and child care articles containing concentrations of more than 0.1 percent of DINP. The phthalates rule also lifted the interim prohibitions on children's toys that can be placed in a child's mouth and child care articles that contain concentrations of more than 0.1 percent of di-n-octyl phthalate (DNOP) or diisodecyl phthalate (DIDP). In addition, the phthalates rule prohibited children's toys and child care articles that contain concentrations of more than 0.1 percent of diisobutyl phthalate (DIBP), Di-n-pentyl phthalate (DPENP), di-n-hexyl phthalate (DHEXP), and dicyclohexyl phthalate (DCHP). The permanent prohibitions on children's toys and child care articles that contain concentrations of more than 0.1 percent on the use of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), and benzyl butyl phthalate (BBP) in children's toys and child care articles in section 108 of the CPSIA were unchanged by the phthalates rule.

On October 27, 2017, in the same issue of the **Federal Register**, the Commission published a notice of proposed rulemaking (NPR) to update the existing NOR in part 1112 for prohibitions of children's toys and child care articles containing specified phthalates. As explained further below, NORs provide the criteria and process for Commission acceptance of accreditation of third party testing laboratories that test products' conformance to CPSC requirements. The Commission previously issued an NOR for the statutory phthalate provisions, 76 FR 49286 (August 10, 2011). The October 27, 2017 NPR proposed to amend part 1112 to reflect the phthalates prohibited in children's toys and child care articles in the phthalates rule. Because the phthalates rule modified the statutorily prohibited phthalates in children's toys and child care articles listed in section 108 of the CPSIA (as stated in § 1307.3), this final rule amends the existing requirements for the prohibitions of children's toys and child care articles containing specified phthalates so that part 1112 reflects those changes.

B. Notice of Requirements

Section 14(a) of the CPSA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program. Products that are subject to a children's product safety rule must be certified based on tests of a sufficient

number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. The Commission's phthalates rule is considered a ''children's product safety rule.'' 15 U.S.C. 2063(f). Thus, products subject to the phthalates rule are subject to the testing and certification requirements of section 14 of the CPSA.

Because children's toys and child care articles are children's products, samples of these products must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements of section 101 of the CPSIA, the requirements of the toy standard, 16 CFR part 1250, and the tracking label requirement in section 14(a)(5) of the CPSA.

In accordance with section 14(a)(3)(B)(vi) of the CPSIA, the Commission has previously published two NORs for accreditation of third party conformity assessment bodies for testing children's toys and child care articles under section 108 of the CPSIA (76 FR 49286 (Aug. 10, 2011), 78 FR 15836 (March 12, 2013)).

As described in the NPR, the Commission will use the following process during the transition period from test method CPSC–CH–C1001–09.3 (2010) to a revised version of the method, test method CPSC–CH–C1001–09.4 (2018). CPSC will accept testing to support children's toys and child care article certifications to the new phthalates prohibitions if the laboratory is already CPSC-accepted to test to CPSC–CH–C1001–09.3 (2010). Laboratories that conduct testing to support product certifications to the new phthalates prohibitions must list in their test reports ''16 CFR part 1307'' and CPSC–CH–C1001–09.3 until laboratories have transitioned their accreditation scope and CPSC listing to CPSC–CH–C1001–09.4 (2018).

The CPSC will open the laboratory application process for test method CPSC–CH–C1001–09.4 (2018) on the date this final rule is published in the **Federal Register**. Laboratories that seek CPSC acceptance to the revised prohibitions for children's toys and child care articles in 16 CFR part 1307 will be required to update their accreditation scope. To be CPSC-accepted, a laboratory's scope of accreditation must include the reference to CPSC–CH–C1001–09.4 (2018). Laboratories that are currently CPSC-accepted to CPSC–CH–C1001–09.3 (2010) are instructed to update their accreditation scope to include CPSC–CH–C1001–09.4 (2018) as soon as possible, and submit their application for CPSC acceptance. Laboratories that were not previously CPSC-accepted to CPSC–CH–C1001–09.3 (2010) are instructed to work with their accreditation bodies to include ''CPSC–CH–C1001–09.4 (2018)'' in their scope documents.

CPSC will accept testing results to the new phthalates prohibitions in 16 CFR part 1307 from laboratories that are CPSC-accepted to CPSC–CH–C1001–09.3 (2010) for two years from the date of publication of this final rule in the **Federal Register**. This should allow adequate time for laboratories to work with their accreditation bodies to make official updates to their accreditation scope document to include the revised CPSC method ''CPSC–CH–C1001–09.4 (2018)'' and submit applications to the CPSC. On February 3, 2020, the CPSC will no longer accept laboratory applications that reference CPSC–CH–C1001–09.3 (2010), and any application to CPSC must reference ''CPSC–CH–C1001–09.4 (2018).''

C. Comments on the NPR

We received four comments on the NPR. Three comments addressed the DRAFT CPSC procedure CPSC–CH–C1001–09.4 (2017) that was published with the October 2017 NPR briefing package. The first comment requested clarification of the final list of prohibited phthalates. The second comment highlighted ''that dissolved PVC-samples can be precipitated by adding hexane. The phthalates remain in solution. The centrifuged solution can then be measured in the GC.'' The third comment came from a testing laboratory representative who recommended a few changes to add clarity and more specificity to the CPSC procedure. The fourth comment was outside the scope of the rule.

Staff made editorial clarifications to the DRAFT CPSC procedure based on the comments. Staff revised the test procedure to clarify the final list of eight prohibited phthalates. Also, staff made several additions to the test equipment and supplies section of the test method reflected in test method CPSC–CH–C1001–09.4 (2018) in response to comment.

Staff did not accept some of the commenters' suggested changes to the test method. The revised test method does not add a temperature specification to the sonication reference in the extraction steps because the extraction is not heat dependent. Additionally, the revised test method does not include suggested additional elements to the Table 1 Conditions for Gas Chromatography-Mass Spectrometry (GC–MS). Staff did not make changes to Table 1, as well as other recommended quality assurance changes to the analysis section of the test method, in order to allow accredited laboratories flexibility in setting up their internal standard operating and quality assurance procedures. Adding the suggested requirements to Table 1 might have forced accredited laboratories to alter already suitable quality assurance programs, thus reducing flexibility. The comment relating to use of hexane for PVC samples did not warrant a change to the test method because the test method already permits the use of hexane.

D. Description of the Rule

The final rule amends 16 CFR 1112.15(b)(31) introductory text, (b)(31)(i), and (c)(3)(i) to update the references to reflect the promulgation of 16 CFR part 1307 and revised CPSC test method CPSC–CH–C1001–09.4 (2018). CPSC test method CPSC–CH–C1001–09.4 (2018), has, among other things, been updated to reflect the list of phthalates prohibited in children's toys and child care articles in 16 CFR part 1307 (DEHP, DBP, BBP, DNOP, DIBP, DPENP, DHEXP, or DCHP). CPSC test method CPSC–CH–C1001–09.4 (2018) provides detailed information on the test methods that will be used by the CPSC testing laboratory for the analysis of phthalate content in children's toys and child care articles covered by the standard set forth in section 108 of the CPSIA and 16 CFR part 1307. The test method provides detailed information regarding equipment and supplies, the procedure for the measurement of phthalate concentration, sample preparation, the phthalate extraction method, and instrument parameters. The test method CPSC–CH–C1001–09.4 (2018) is substantially the same as the current testing procedure.

E. Incorporation by Reference

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, section D of this preamble summarizes CPSC test method CPSC–CH–C1001–09.4 (2018) that the Commission incorporates by reference

into 16 CFR part 1112. The test method is reasonably available to interested parties, and interested parties may obtain a copy of the test method from CPSC National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850; *www.cpsc.gov.* The test method is also available on the CPSC website. *https://cpsc.gov/Business-Manufacturing/Testing-Certification/Lab-Accreditation/Test-Methods/.* A copy of the test method can also be inspected at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone 301–504–7923.

F. Effective Date

The APA generally requires that a substantive rule must be published not less than 30 days before its effective date. 5 U.S.C. 553(d)(1). The NPR proposed a 30-day effective date because the rule allows testing to continue under the existing testing method by testing laboratories that meet certain criteria for a period of up to two years after the publication of a final rule. However, to avoid possible confusion if the effective date for this rule differed from the effective date for the underlying phthalates rule, we are setting the effective date for the rule on April 25, 2018, the same date the phthalates rule takes effect. This is consistent with past practice setting the effective date for NORs for durable nursery products under section 104 of the CPSIA and updates to the mandatory toy standard ASTM F963 on the same date the underlying rule takes effect.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the APA, or any other statute, unless the agency certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603 and 605. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The Commission certified, in the NPR, that the rule would not have a significant impact on a substantial number of small entities because the revised testing method is substantially the same as the method that laboratories are already using, qualified testing laboratories should be able to adopt the new method without difficulty, and the 2-year window allowed to amend the accreditation scope documents would allow testing laboratories to time the amendments with their periodic reassessments by their accreditation bodies, which should result in minimal (if any) additional cost. The Commission did not receive any public comments that addressed the potential impact on small entities, nor has the Commission staff become aware of any new information that would change its previous determination regarding the impact on small entities.

H. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

List of Subjects in 16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Incorporation by reference, Reporting and recordkeeping requirements, Third party conformity assessment body.

For the reasons discussed in the preamble, the Commission amends title 16 CFR chapter II, as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

■ 2. Amend § 1112.15 by:
■ a. Revising the introductory text to paragraph (b)(31);
■ b. Revising paragraph (b)(31)(i); and
■ c. Revising paragraph (c)(3)(i).

The revisions read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * * *

(b) * * *

(31) 16 CFR part 1307, Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates. For its accreditation to be accepted by the Commission to test for phthalates in children's toys and child care articles, a third party conformity assessment body must have one or more of the following test methods referenced in its statement of scope:

(i) CPSC Test Method CPSC–CH–C1001–09.4, ''Standard Operating Procedure for Determination of Phthalates'';

* * * * *

(c) * * *

(3) * * *

(i) CPSC–CH–C1001–9.4, ''Standard Operating Procedure for Determination of Phthalates'', January 17, 2018;

* * * * *

Alberta E. Mills,

Acting Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2018–01452 Filed 1–31–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–475]

Schedules of Controlled Substances: Temporary Placement of Seven Fentanyl-Related Substances in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this temporary scheduling order to schedule seven fentanyl-related substances in schedule I. These seven substances are: *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide (valeryl fentanyl), *N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide (*para*-fluorobutyryl fentanyl), *N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide (*para*-methoxybutyryl fentanyl), *N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide (*para*-chloroisobutyryl fentanyl), *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide (isobutyryl fentanyl), *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopentanecarboxamide (cyclopentyl fentanyl), and *N*-(2-fluorophenyl)-2-methoxy-*N*-(1-phenethylpiperidin-4-yl)acetamide (ocfentanil). This action is based on a finding by the Administrator that the placement of these seven synthetic opioids in schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to

schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil.

DATES: This temporary scheduling order is effective February 1, 2018, until February 1, 2020. If this order is extended or made permanent, the DEA will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Michael J. Lewis, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

Section 201 of the Controlled Substances Act (CSA), 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling [1] for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance in schedule I of the CSA.[2] The Administrator transmitted notice of his intent to place valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil in schedule I on a temporary basis to the Assistant Secretary for Health of HHS by letter dated October 20, 2017. The Assistant Secretary responded to this notice of intent by letter dated November 8, 2017, and advised that based on a review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of these seven substances in schedule I of the CSA. The DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). Valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil are not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for these seven substances under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, and as required by 21 U.S.C. 811(h)(1)(A), a notice of intent to temporarily schedule valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil was published in the **Federal Register** on December 13, 2017. 82 FR 58575.

To find that placing a substance temporarily in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Available data and information for valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil, summarized below, indicate that these synthetic opioids have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis and the Assistant Secretary's November 8, 2017 letter are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *www.regulations.gov* under FDMS Docket ID: DEA–2017–0016–0001 (Docket Number DEA–475).

Factor 4. History and Current Pattern of Abuse

The recreational abuse of fentanyl-related substances continues to be a significant concern. These substances are distributed to users, often with unpredictable outcomes. Evidence suggests that the pattern of abuse of these fentanyl-related substances parallels that of heroin and prescription opioid analgesics. Valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil are fentanyl-related substances that have been encountered by law enforcement and/or reported in the scientific literature by public health officials. Adverse health effects and outcomes related to the abuse of fentanyl-related substances have been documented in previous temporary

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this document adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

[2] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

scheduling actions (see DEA 3-Factor Analysis).

On October 1, 2014, the DEA implemented STARLiMS (a web-based, commercial laboratory information management system) to replace the System to Retrieve Information from Drug Evidence (STRIDE) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are reposited in STARLiMS. Data from STRIDE and STARLiMS were queried on November 2, 2017. STARLiMS registered the following reports: valeryl fentanyl (15), *para*-fluorobutyryl fentanyl (5), isobutyryl fentanyl (116), and cyclopentyl fentanyl (1). These identifications were made beginning in 2015.

The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by other federal, state and local forensic laboratories across the country. NFLIS was queried on November 3, 2017 [3] and the following substances (number of drug reports) were identified from state and local forensic laboratories since 2015: valeryl fentanyl (69), *para*-fluorobutyryl fentanyl (220), *para*-methoxybutyryl fentanyl (1), and isobutyryl fentanyl (4). The identification in other countries of *para*-fluorobutyryl fentanyl (Poland and Sweden), *para*-methoxybutyryl fentanyl (Sweden), ocfentanil (Belgium and Switzerland), cylcopentyl fentanyl (Sweden), and *para*-chloroisobutyryl fentanyl (Sweden) in toxicological samples associated with fatal and non-fatal overdoses was reported in the scientific literature.

Factor 5. Scope, Duration and Significance of Abuse

Fentanyl-related substances have recently re-emerged on the illicit market (*see* DEA 3-Factor Analysis for full discussion). Valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil have been identified in evidence submitted to law enforcement and/or reported in the scientific literature by public health forensic laboratories.

The identification of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil in forensic evidence indicates that these substances are intended to be replacements for controlled synthetic opioids, heroin, and/or prescription opioids. Because abusers of these fentanyl-related substances obtain these substances through unregulated sources, the identity, purity, and quantity are uncertain and inconsistent, thus posing significant adverse health risks to the end user. Individuals who initiate (*i.e.,* use a drug for the first time) abuse of these substances are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.,* fentanyl, morphine).

Factor 6. What, if Any, Risk There Is to the Public Health

With no legitimate medical use in the United States, valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil have emerged on the illicit drug market. Substances within this chemical structural class have demonstrated pharmacological profiles similar to that of fentanyl and other μ-opioid receptor agonists (see DEA 3-Factor Analysis). The abuse of these fentanyl-related substances poses significant adverse health risks when compared to abuse of pharmaceutical preparations of opioid analgesics, such as morphine and oxycodone. The toxic effects of substances within this structural class in humans are demonstrated by overdose fatalities described in previous scheduling actions.

Based on information received by the DEA, the misuse and abuse of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil lead to, at least, the same qualitative public health risks as heroin, fentanyl and other opioid analgesic substances. As with any non-medically approved opioid, the health and safety risks for users are high. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information, summarized above, the continued uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for these seven substances in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil indicate that these substances have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, by letter dated October 20, 2017, notified the Assistant Secretary of the DEA's intention to temporarily place these substances in schedule I. A notice of intent was subsequently published in the **Federal Register** on December 13, 2017. 82 FR 58575.

Conclusion

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, and herein sets forth the grounds for his determination that it is necessary to temporarily schedule valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil in schedule I of the CSA to avoid an imminent hazard to the public safety.

Because the Administrator hereby finds it necessary to temporarily place these synthetic opioids in schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil is effective on

[3] Data are still being collected for July 2017–October 2017 due to the normal lag period for labs reporting to NFLIS.

the date of publication in the **Federal Register**, and is in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The permanent scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Requirements for Handling

Upon the effective date of this temporary order, valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of February 1, 2018. Any person who currently handles valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil, and is not registered with the DEA, must submit an application for registration and may not continue to handle valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil as of February 1, 2018, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after February 1, 2018, is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil, must surrender all currently held quantities of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil.

3. *Security.* Valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71–1301.93, as of February 1, 2018.

4. *Labeling and packaging.* All labels, labeling, and packaging for commercial containers of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from February 1, 2018, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil on the effective date of this order must take an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304, 1312, 1317, and § 1307.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil must submit reports pursuant to 21 U.S.C. 827, and in accordance with 21 CFR parts 1304 and 1312, as of February 1, 2018.

8. *Order Forms.* All DEA registrants who distribute valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil must comply with order form requirements pursuant to 21 U.S.C. 828, and in accordance with 21 CFR part 1305, as of February 1, 2018.

9. *Importation and Exportation.* All importation and exportation of valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, and ocfentanil must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312, as of February 1, 2018.

10. *Quota.* Only DEA registered manufacturers may manufacture valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil in accordance with a quota assigned pursuant to 21 U.S.C. 826, and

in accordance with 21 CFR part 1303, as of February 1, 2018.

11. *Liability.* Any activity involving valeryl fentanyl, *para*-fluorobutyryl fentanyl, *para*-methoxybutyryl fentanyl, *para*-chloroisobutyryl fentanyl, isobutyryl fentanyl, cyclopentyl fentanyl, or ocfentanil not authorized by, or in violation of, the CSA, occurring as of February 1, 2018, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of the Administrative Procedure Act (APA) at 5 U.S.C. 553, do not apply to this temporary scheduling action. In the alternative, even assuming that this action might be subject to 5 U.S.C. 553, the Administrator finds that there is good cause to forgo the notice and comment requirements of 5 U.S.C. 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Further, the DEA believes that this temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the CRA, ''any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the federal agency promulgating the rule determines.'' 5 U.S.C. 808(2). It is in the public interest to schedule these substances immediately to avoid an imminent hazard to the public safety. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h) exempts the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the DEA's need to move quickly to place these substances in schedule I because they pose an imminent hazard to the public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication. The DEA has submitted a copy of this temporary order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraphs (h)(23) through (29) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(23) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: valeryl fentanyl)	(9804)
(24) *N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: *para*-fluorobutyryl fentanyl)	(9823)
(25) *N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: *para*-methoxybutyryl fentanyl)	(9837)
(26) *N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: *para*-chloroisobutyryl fentanyl)	(9826)
(27) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: isobutyryl fentanyl)	(9827)
(28) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopentanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopentyl fentanyl)	(9847)
(29) *N*-(2-fluorophenyl)-2-methoxy-*N*-(1-phenethylpiperidin-4-yl)acetamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: ocfentanil)	(9832)

Dated: January 26, 2018.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2018–02008 Filed 1–31–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0033]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway, Beach Thorofare, Margate City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Margate Boulevard/Margate Bridge which carries Margate Boulevard across the New Jersey Intracoastal Waterway, Beach Thorofare, mile 74.0, at Margate City, NJ. The deviation is necessary to facilitate bridge maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 7 a.m. on Monday, February 26, 2018, through 7 p.m. on Monday, March 12, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0033] 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. Michael Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Ole Hansen and Sons, Inc., owner and operator of the Margate Boulevard/Margate Bridge that carries Margate Boulevard across the New Jersey Intracoastal Waterway, Beach Thorofare, mile 74.0, at Margate City, NJ, has requested a temporary deviation from the current operating schedule to facilitate maintenance of the structural steel and replacement of the structural steel support column of the double bascule drawbridge. The bridge has a vertical clearance of 14 feet above mean high water in the closed position and unlimited clearance in the open position. The current operating schedule is set out in 33 CFR 117.5. Under this temporary deviation, the bridge will be in the closed-to-navigation position between 7 a.m. on February 26, 2018, through 7 p.m. on March 12, 2018.

The Beach Thorofare is used by a variety of vessels including recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at any time. The bridge will not be able to open for emergencies and there is no immediate alternative route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge, so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: January 26, 2018.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–01981 Filed 1–31–18; 8:45 am]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3010

[Docket No. RM2016–6; Order No. 4393]

Mail Preparation Changes

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a final rule concerning mail preparation changes. This Order amends an existing Commission rule.

DATES: *Effective* March 5, 2018.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Background
III. Review of Proposed Rule and Analysis of Comments
IV. Ordering Paragraphs

I. Introduction

In this Order, the Commission adopts a final rule concerning mail preparation changes. The final rule adopted by this Order amends an existing Commission rule located at 39 CFR part 3010.[1] The rule as adopted incorporates suggestions presented by commenters that include slight modifications to the rule as proposed, but do not materially affect its substance.

II. Background

The Commission is charged with enforcing its price cap rules, which require that the Postal Service make reasonable adjustments to its billing determinants to account for the effects of classification changes such as the introduction, deletion, or redefinition of rate cells. *See* 39 CFR 3010.23(d)(2). Under § 3010.23(d)(2), these classification changes can include changes to mail preparation requirements made by the Postal Service. In Docket No. R2013–10R, the Commission articulated a standard governing when mail preparation changes result in the deletion or redefinition of rate cells under § 3010.23(d)(2) of the price cap rules.[2]

After setting forth the standard applied to mail preparation requirements, the Commission instituted the present rulemaking ''to create rules for the process and timeframes for the regulation of mail preparation requirement changes.''[3] As discussed below, the Commission issued an initial proposed rule that was

[1] On December 1, 2017, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM2017–3 that proposed replacing provisions of 39 CFR part 3010 with new rules in new subparts. The Commission issues this rule in part 3010 and any changes to the rule's location in the CFR will be made in the Docket No. RM2017–3 rulemaking. *See* Docket No. RM2017–3, Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, December 1, 2017 (Order No. 4258). The notice of proposed rulemaking was published in the **Federal Register** on December 11, 2017. *See* 82 FR 58280.

[2] Docket No. R2013–10R, Order Resolving Issues on Remand, January 22, 2016 (Order No. 3047). For a complete history of the underlying proceedings and the facts regarding the change to Full Service Intelligent Mail barcoding (IMb) which precipitated the need for a standard, *see* Docket No. R2013–10, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 21, 2013, at 5–35 (Order No. 1890); Order No. 3047; Docket No. R2013–10R, Order Resolving Motion for Reconsideration of Commission Order No. 3047, July 20, 2016 (Order No. 3441).

[3] Order No. 3047 at 21. *See also id.* at 59 (''The Commission intends to also issue a rulemaking to establish procedural rules setting forth the process governing mail preparation changes that require price cap compliance.'').

later withdrawn and replaced with a revised proposed rule.

A. Initial Notice of Proposed Rulemaking

On January 22, 2016, the Commission published a notice of proposed rulemaking (Initial NPR) that proposed a procedural rule for issues concerning compliance with the price cap rules for mail preparation changes.[4] The Commission identified a need to amend its rules to ''ensure that the Postal Service properly accounts for the rate effects of mail preparation changes'' under § 3010.23(d)(2). Order No. 3048 at 1.

The Initial NPR proposed adding a new section under the Commission's existing general motion rule that would create a separate motion procedure dedicated to compliance issues for mail preparation changes. *Id.* at 3–4. The initial proposed rule defined motions concerning mail preparation changes as ''challenges to instances where an announced mail preparation change does not contain a Postal Service indication that the change has a rate effect requiring compliance with § 3010.23(d)(2). . . .'' *Id.* at 7. The Initial NPR proposed parameters for motions specific to mail preparation changes, including a filing deadline and grounds required for the motion. Specifically, the Initial NPR proposed that any motions concerning mail preparation changes were to be filed within 30 days of ''actual or constructive notice of the implementation date of the change'' and were to contain a description of the change at issue and the ''grounds by which the mail preparation change must comply with § 3010.23(d)(2). . . .'' *Id.* The filing deadline would be triggered by written notice of the implementation date of the mail preparation change by the Postal Service. *Id.* at 3–4. The Postal Service would be required to ''affirmatively designate only those changes that require compliance with § 3010.23(d)(2)'' when it provided written notice of publication of the mail preparation change. *Id.* at 4.

Although the Initial NPR reiterated the Commission's previous explanation that the ''Postal Service has the affirmative burden to determine whether a mail preparation change requires compliance with § 3010.23(d)(2) under the Commission's standard in Order No. 3047,'' the initial rule did not propose including a statement of this affirmative burden in the rule.[5]

In proposing the initial rule, the Commission explained that the ''primary purpose of the rulemaking is to ensure that the Postal Service properly accounts for the rate effects of mail preparation changes under § 3010.23(d)(2) of this chapter in accordance with the Commission's standard articulated in Order No. 3047.'' Order No. 3048 at 1–2. The Commission stated that it also intended to ''standardize the procedure and timeframe by which interested parties must file a motion with the Commission when they contend that a mail preparation change has a rate effect requiring compliance with the price cap rules.'' *Id.* at 2. The Initial NPR was intended to provide ''an avenue for interested parties to raise the possibility that the Postal Service may have erred by failing to account for the price cap impact of a mail preparation change.'' *Id.* at 5.

In response to the Initial NPR, the Commission received numerous comments that raised questions about the utility of creating a separate procedural rule for motions concerning mail preparation changes. Commenters submitted concerns over how a separate motion procedure would affect the Commission's authority and responsibility to independently review mail preparations for compliance with the price cap rules.[6] Commenters also raised questions concerning the potential redundancy of the proposed rule in light of the right to challenge the Postal Service's compliance with the price cap rules in existing proceedings before the Commission. *See id.* at 3. Commenters also suggested modifications to the various procedural components set forth in the initial proposed rule, raising concerns with the notice provisions and the filing deadline. *See id.* at 3–5.

The Postal Service did not share the concerns of the majority of the commenters. Instead, it suggested adding additional sections to the proposed motion procedure, including discovery, meet and confer requirements, and deadlines for resolving motions. *Id.* at 5–6.

B. Revised Notice of Proposed Rulemaking

On March 27, 2017, the Commission issued a revised notice of proposed rulemaking (Revised NPR) which, in response to comments on the Initial NPR, withdrew the initial proposed rule and proposed a revised rule.

The Revised NPR proposed adding a new section to the price cap rules, § 3010.23(d)(5). The revised proposed rule creates a standardized reporting process for mail preparation changes and memorializes the Postal Service's burden to demonstrate compliance with the price cap. Specifically, the revised proposed rule requires that the Postal Service publish notice of all mail preparation changes in a single, publicly available source. Order No. 3827 at 13–14. Under the revised rule, the Postal Service must file notice with the Commission designating the source it will use to provide public notice. *Id.* The revised proposed rule also requires the Postal Service to affirmatively state whether or not the mail preparation change requires compliance with § 3010.23(d)(2). *Id.* If the Postal Service's determination of price cap compliance is raised, the Postal Service is required to demonstrate, by a preponderance of the evidence, that the mail preparation change at issue does not require compliance with § 3010.23(d)(2).

The revisions to the rule were made ''to better target the specific goal of ensuring that the Postal Service properly accounts for mail preparation requirement changes under § 3010.23(d)(2).'' *Id.* at 11. The Revised NPR withdrew the initial proposal to create a separate motion procedure for issues concerning mail preparation changes. The Commission explained that it chose not to continue creating a separate motion procedure specific to compliance issues for mail preparation changes based on its review of existing procedures and practices and in response to commenter concerns. *See id.* at 8–11. The Commission requested comments in response to the Revised NPR.

The Postal Service, the Public Representative, the Association for Postal Commerce (PostCom), and the National Postal Policy Council, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement (collectively NPPC *et al.*) submitted comments in response to the Revised NPR.[7]

[4] The Initial NPR was published in the **Federal Register** on February 1, 2016. *See* 81 FR 5085. Notice of Proposed Rulemaking on Motions Concerning Mail Preparation Changes, January 22, 2016, at 1–2 (Order No. 3048).

[5] The revised notice of proposed rulemaking (Revised NPR) was published in the **Federal Register** on March 31, 2017. *See* 82 FR 16015. Revised NPR, March 27, 2017, at 1–2, 7 (Order No. 3827).

[6] Order No. 3827 at 2–3. The Commission refers to its response to the comments in Order No. 3827.

[7] Comments of the National Postal Policy Council, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement, May 1, 2017 (NPPC *et al.* Comments); Public

III. Review of Proposed Rule and Analysis of Comments

In this section, parts of the revised proposed rule that will be finalized are identified, briefly outlined, and comments or issues relating to the rule are discussed and analyzed.

A. Publication Requirement

The rule sets forth a requirement that the Postal Service publish notice of all mail preparation changes in a single, publicly available source. *See* Order No. 3827 at 13. The Postal Service shall file notice with the Commission of the single source it will use to publish notice of all mail preparation changes. *Id.* The publication requirement also requires an affirmative designation of whether or not the change will be subject to § 3010.23(d)(2). *Id.* The Commission analyzes and responds to comments relevant to the publication requirement.

In response to both the Initial and Revised NPR, commenters generally expressed concern that it is difficult to monitor the multiple sources used by the Postal Service to provide notice of mail preparation changes. *See id.* at 6–7. The multiple sources of publication make it ''more difficult to know whether the real effects of mail preparation changes affect the price cap.'' [8] Numerous commenters requested that the Commission direct the Postal Service to identify a single publication where all mail preparation changes will be published. *Id.* Requiring single source publication would allow both mailers and the Commission ''to more easily monitor mail preparation changes for price cap compliance'' and alleviate the need for a separate motion procedure. *Id.*

In their comments to the Initial NPR, NPPC *et al.* supported single source publication of all mail preparation changes. Initial NPPC *et al.* Comments at 5. In their comments on the Revised NPR, NPPC *et al.* find that the revised proposed rule represents a substantial improvement over the initial proposed motion procedure and is an appropriate response to its concerns. NPPC *et al.* Comments at 2. NPPC *et al.* state that the publication requirement ''will promote clarity and efficiency by having the Postal Service post all of its mailing regulation changes in one place.'' *Id.* They state that the publication requirement should ''greatly help the Commission and mailers keep track of mailing regulation changes between market-dominant pricing adjustments.'' *Id.*

In its comments to the Initial NPR, PostCom proposed directing ''the Postal Service to identify a publication in which all mail preparation changes will be published.'' [9] In its comments on the Revised NPR, PostCom notes that the proposed rule does not define the term ''mail preparation change'' and contends that ''[w]hile there is nothing inherently problematic with failing to define this term, it does create some uncertainty.'' PostCom Comments at 1. PostCom specifically notes its concern that the Postal Service would decline to publish notice of a mail preparation change because it could determine the change does not relate to ''mail preparation.'' *Id.* at 1–2. In light of this concern, PostCom suggests that the Commission clarify in the final rule that the Commission ''will still hear challenges to changes that were not published in the specified source.'' *Id.* at 2.

With respect to PostCom's concern that the Postal Service may attempt to avoid price cap compliance by failing to classify a change as a mail preparation change and, as a result, fail to provide the requisite notice, the Commission submits that its existing procedures provide adequate recourse to deal with any issues concerning challenges to changes that are not properly designated or published in the specified source. Therefore, the Commission declines to adopt PostCom's suggested change in the final rule.

In comments to the Initial NPR, the Public Representative supported requiring the Postal Service file notice of mail preparation changes in a single source.[10] He submitted that, because the mail preparation changes are not currently published in a single source, ''the Commission is not in a position to review the effects of each mail preparation change'' and this creates a gap in regulatory coverage. Initial PR Comments at 6–7. In comments to the Revised NPR, he states that the ''Commission's order should make clear whether one particular publication (as selected by the Postal Service) must provide notification of all mail preparation changes.'' PR Comments at 7. The Public Representative is correct that the Commission's proposed rule requires single source publication of all mail preparation changes, regardless of whether the changes are also noticed in additional sources. Therefore, the Commission modifies the final rule to clarify that the rule requires publication of all mail preparation changes in a single source as follows: ''The Postal Service shall file notice with the Commission of the single source it will use to provide published notice of all mail preparation changes.''

With respect to the publication requirement, the Postal Service contends that the ''Commission should decline to adopt the proposed 'single source' publication requirement.'' Postal Service Comments at 27. It states that it is ''unclear what procedural purpose would be served by these new requirements'' and that it ''already has strong business incentives to provide advance notice of upcoming changes, to help ensure that mailers can and will comply with any new requirements in a timely manner.'' *Id.* at 25, 26. The Postal Service outlines the many ways in which it communicates proposed changes to mail preparation requirements, including at conferences attended by various mailers, and sources such as the *Postal Bulletin* and the **Federal Register**. *Id.* at 26. The Postal Service does not claim that it would be burdensome or difficult to provide notice of all mail preparation changes in one source; rather, it contends, ''[n]otice was not the source of the disagreement between the Postal Service, the Commission, and the mailers challenging the IMb requirements.'' *Id.* at 27. Further, it submits that no party has complained ''that its ability to dispute the price-cap effects of mail preparation requirement changes has been hampered by where and how the Postal Service gave notice of the relevant changes.'' *Id.* The Postal Service also contends that the rule requiring that the ''Postal Service publish all such changes in a 'single source' serves no relevant purpose'' in the absence of a filing deadline for motions concerning mail preparation changes. *Id.* at 3.

In response to the Postal Service's question regarding the purpose of the single source publication requirement, the rule will provide standardized, transparent reporting of mail preparation changes to ensure compliance with the price cap rules. This information will enable the Commission and the mailing community to properly monitor the changes to mail preparation

Representative Comments on Revised Notice, May 1, 2017 (PR Comments); United States Postal Service Comments on Proposed Rules for Motions Concerning Mail Preparation Changes, May 1, 2017 (Postal Service Comments); Comments of the Association for Postal Commerce, May 1, 2017 (PostCom Comments).

[8] Order No. 3827 at 6 (citing Comments of the National Postal Policy Council, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement, September 2, 2016, at 5 (Initial NPPC *et al.* Comments)).

[9] Comments of the Association for Postal Commerce, September 2, 2016, at 5 (Initial PostCom Comments).

[10] Public Representatives Comments, September 2, 2016, at 6–7 (Initial PR Comments).

requirements for price cap compliance. This rulemaking was initiated to add a procedural component to the existing Commission rules in order to ensure that the Postal Service ''properly accounts for the rate effects of mail preparation changes under § 3010.23(d)(2).'' Order No. 3048 at 1. Although the Postal Service states that it has a business incentive to provide notice of mail preparation changes, price cap compliance is an obligation that exists independent of any business incentive the Postal Service may have for its actions. Without a standardized process for reporting changes to mail preparation requirements, it is difficult to monitor the multitude of mail preparation changes made by the Postal Service for purposes of ensuring price cap compliance.

As previously stated, the Postal Service provides notice of changes to mail preparation requirements in many different sources including the ''**Federal Register**, Postal Bulletin, and on the RIBBS website.'' [11] As the Postal Service admits that it already provides notice of changes to mail preparation requirements in a variety of formats and sources, it should not be burdensome for it to comply with the single source publication requirements. Further, this rule does not interfere with parties' current rights to challenge the Postal Service's compliance with the price cap rules in existing Commission proceedings and does not conflict with the Commission's responsibility to enforce the price cap rules.

Accordingly, the Commission finds it appropriate to maintain the publication requirement in the final rule, with the slight modification described above, because it will provide important notice to both the mailers and the Commission of mail preparation changes that could potentially implicate the price cap.

In addition to publication in a single source, the rule requires the Postal Service to affirmatively designate whether or not the individual mail preparation change requires compliance with § 3010.23(d)(2). Although the Commission did not receive comments specific to this revised affirmative designation requirement in response to the Revised NPR, a similar requirement was proposed in the Initial NPR. The initial rule proposed requiring an affirmative designation for only those instances where the mail preparation change required compliance with the price cap rules. Comments received on that provision requested that the Commission modify the requirement to include an affirmative statement of whether *or not* the change required compliance with the price cap rules. Specifically, PostCom submitted that ''the Postal Service should provide an affirmative statement of no price impact, providing clarity for mailers and no additional burden on the Postal Service in light of their affirmative duty to make the initial determination.'' [12] The Postal Service did not oppose the affirmative designation requirement in the Initial NPR and does not comment specifically on the modified designation requirement in the Revised NPR, except to state that it opposes all changes in the Revised NPR. Postal Service Comments at 5.

As it remains the Postal Service's obligation to review all of its mail preparation changes for compliance with § 3010.23(d)(2), the rule maintains the requirement that the Postal Service provide an affirmative statement of its determination for each mail preparation change that it does or does not require compliance with § 3010.23(d)(2).

B. Evidentiary Burden

In addition to the publication requirement, the rule provides that, ''[i]f raised by the Commission or challenged by a mailer, the Postal Service must demonstrate, by a preponderance of the evidence, that a mail preparation change does not require compliance with paragraph (d)(2) of this section in any proceeding where compliance is at issue.'' Order No. 3827 at 13–14.

In response to the Revised NPR, NPPC *et al.* submit that ''the revised proposal correctly makes clear that, if a question arises (which has seldom occurred over the past decade) the Postal Service bears the burden of proof that a mail preparation requirement change does not require compliance with section 3010.23(d)(2) of the Commission's rules.'' NPPC *et al.* Comments at 2. NPPC *et al.* contend that the ''revised proposal properly emphasizes that the Postal Service bears the obligation to comply with the price cap regulations and the Commission has primary enforcement authority.'' *Id.*

The Postal Service objects to the evidentiary burden provision and submits that the burden of proof should be placed on the ''proponent that asserts that a particular mail preparation change constitutes a change in rates because it redefines a price cell.'' Postal Service Comments at 2, 15–16. It states that ''[i]f the Commission nonetheless decides to place the burden of proof on the Postal Service, the Postal Service will need to develop a process for obtaining cost information from potentially impacted mailers in order to determine the amount of compliance costs that a given change might impose on the mailing community.'' *Id.* at 2–3. The Postal Service further claims that the rule is unfairly ''assigning the burden of proof.'' *Id.* at 14.

The Postal Service also claims that the evidentiary burden provision is unfair based on its pending appeal of the underlying substantive standard applying § 3010.23(d)(2) to mail preparation changes. *Id.* at 19. The Postal Service maintains that the substantive standard set forth in Order No. 3047 and reiterated in Order No. 3441 fails to provide clarity and that the Commission ''should suspend further work on the rulemaking until the DC Circuit has completed its review of the substantive standard.'' *Id.*

The Postal Service claims that its complaints regarding confusion over application of the standard are relevant to the evidentiary standard set forth in the current rulemaking because it is confused over ''what, exactly, it is asking the Postal Service to prove.'' *Id.* at 22. The Postal Service repeats its substantive argument regarding its objections to the redefinition prong of the Commission's standard and states that it ''does not have comprehensive, verifiable information concerning the costs that any given mail preparation change will collectively impose on the impacted mailer.'' *Id.* at 22–23. It contends that as a result, the Commission is ''[p]assing the fact-gathering burden onto the Postal Service'' and undermining the purpose of the rulemaking which it characterizes as establishing a '' 'streamlined' process that would allow the Postal Service to implement mail preparation changes 'with minimal disruption,' and that would not stay implementation of a mail preparation change that is the subject of a motion.'' *Id.* at 23.

In response to the Postal Service's concerns over the evidentiary standard, the Commission submits that the evidentiary burden in the final rule is the same burden that has existed throughout the PAEA era. It is the Postal Service's responsibility to ''apply a good faith analysis to make the preliminary determination of whether a mail preparation requirement change will result in either the deletion or redefinition of a rate cell.'' Order No. 3047 at 20. If it determines that a mail preparation ''change has deleted or redefined a rate cell then it must comply

[11] Order No. 3048 at 3. Since the publication of the Initial NPR, the RIBBS website has transitioned to PostalPro. *See https://ribbs.usps.gov; https://postalpro.usps.com.*

[12] Order No. 3827 at 7(citing Initial PostCom Comments at 7); *see also e.g.,* Initial PR Comments at 6–8; Initial NPPC *et al.* Comments at 8–11.

with the price cap rule under [§ 3010.23(d)(2)] and account for the rate effects of the change.'' *Id.* Accordingly, as explained in Order No. 3047, the Postal Service has the ''affirmative burden to determine whether changes to mail preparation have a rate effect with price cap implications in accordance with the Commission's standard and [§ 3010.23(d)(2)].'' *Id.*

In response to the Postal Service's contention that the Commission's failure to explain its standard and how it is to be applied to future cases should prevent the rulemaking from moving forward, the Commission points to its responses to the Postal Service's arguments concerning the substantive standard in Order Nos. 3047 and 3441. In Order No. 3441, the Commission explained:

> Although the Postal Service claims that the Commission ''fail[ed] to respond'' to the Court's holding that the Commission must explain its standard, the Commission provided a detailed explanation of the standard, parameters of the standard, and application of the standard. Order No. 3047 at 13–31. The Commission cannot provide explanation of abstract hypothetical changes the Postal Service may make in the future, as those issues and facts are not currently before the Commission. However, despite the fact that this standard is to be applied on a case-by-case basis, the Commission provided an explanation of how the standard would be applied, and set forth the parameters of such application so that the Postal Service and interested parties would have sufficient guidance in the future. *See id.* at 15–31.

Order No. 3441 at 11.

The Commission has previously declined the Postal Service's motion to suspend this rulemaking proceeding pending resolution of the Postal Service's Petition for Review before the DC Circuit Court of Appeals.[13] The Commission again declines to suspend this proceeding. As previously stated, the Postal Service's comments simply repeat ''the Postal Service's arguments in disagreement with the Commission's substantive standard articulated in Order Nos. 3047 and 3441 and [do] not provide any justification to warrant a stay.'' [14] Moreover, the final rule will not be affected should the Court disagree with the Commission's standard articulated in Order No. 3047 because, should the standard be modified, the Court affirmed the Commission's authority to regulate mail preparation changes under the price cap rules and this rule sets a procedure for reporting and monitoring mail preparation changes. Order No. 3047 at 2, 9–10. The final rule sets up a procedure for reporting mail preparation changes, requires a designation of whether or not the change implicates the price cap, and formalizes the Postal Service's burden to comply with the price cap; the rule does not incorporate the substantive standard. In the event the standard is later modified, the rule would remain as a procedural mechanism to identify mail preparation changes that may have rate implications, and provide an avenue for parties to raise the issue of whether a change has such implications, and would apply regardless of the appellate outcome.

The Postal Service also points to Order No. 3827, the Revised NPR, and contends that statements made in that order contradict the Commission's standard set forth in Order No. 3047. The Postal Service submits that the Commission, in Order No. 3827, ''maintains that a mail preparation change is subject to the price cap when it functionally 'eliminates' a rate.'' Postal Service Comments at 20. It claims that this statement contradicts the Commission's position on appeal and contends that ''the Commission's brief in the DC Circuit acknowledged that the elimination of a rate does not address whether mailers will be forced to pay higher prices.'' *Id.* Although this comment addresses the substance of the standard as opposed to the rule, the Commission responds in order to correct the Postal Service's mischaracterization. The functional elimination of a rate is a deletion under § 3010.23(d)(2) and once it is clear that a rate has been deleted; the effect of that deletion is calculated pursuant to the price cap rules. Section 3010.23(d)(2) represents the first step in a two-part process for price cap compliance; it determines whether the price cap applies. Once that determination has been made under § 3010.23(d)(2), the remaining subparts of § 3010.23(d) are utilized to determine the rate effect of the change. In this second step, depending on the calculation, the rate effect could represent a rate increase, decrease, or have zero effect.[15] These facts are acknowledged by both Order No. 3827 and the Commission's brief in the DC Circuit Court of Appeals and do not represent the contradiction claimed by the Postal Service.

Moreover, if the Postal Service is unsure how to apply § 3010.23(d)(2) to a mail preparation change in order to determine whether the price cap applies, it may file a motion with the Commission. As discussed in more detail below, *see infra* section III.C., the Commission's general motion practice rules provide an avenue for the Postal Service to request a determination from the Commission on whether a specific mail preparation change will trigger compliance with the price cap under § 3010.23(d)(2).

With respect to the Postal Service's concern that the lack of discovery will prevent it from satisfying its burden of proof, the Commission responds that discovery is always available in Commission proceedings where it is ''reasonably calculated to lead to admissible evidence during a proceeding.'' *See, e.g.,* 39 CFR 3001.86. The Commission has traditionally declined to make discovery a right in proceedings, as it ''could take away the Commission's ability to adapt review procedures to fit the underlying issues presented.'' [16] As the Commission explained in the Revised NPR, in the situation where compliance with the price cap is at issue ''the specific evidence presented will be largely fact dependent subject to the individual circumstances of the matter and the Postal Service's showing will be evaluated based on the evidence available at the time.'' Order No. 3827 at 9. If issues arise that cannot be resolved within the existing procedures or require discovery, in line with past practice, the Commission retains the flexibility to tailor the proceedings accordingly to fit the issue and any party may file a request for discovery. Therefore, the Commission declines to modify the rule to institute discovery as a matter-of-right.

However, the Commission agrees with the Postal Service's suggestion that the rule also codify the requirement that a ''challenging party should provide relevant evidence to rebut the Postal Service's initial determination that the price cap does not apply.'' Postal Service Comments at 18. Parties requesting relief before the Commission based on the Postal Service's action or inaction must always provide the requisite support for their position. In addition to the rules prescribed for specific proceedings, § 3001.11 of this chapter provides that the necessary contents of documents that do not pertain to a specific rule, regulation, or Commission Order. *See* 39 CFR 3001.11(c). Accordingly, the

[13] Order Denying Motion, April 28, 2017 (Order No. 3879).

[14] Order No. 3879 at 2; *see* Postal Service Comments at 19–25.

[15] Order No. 3047 only concerned the first step in this two-part process; whether a mail preparation change was subject to the price cap applying § 3010.23(d)(2).

[16] Docket No. RM2008–4, Notice of Final Rule Prescribing Form and Content of Periodic Reports, April 16, 2009, at 12 (Order No. 203).

Commission modifies the final rule to include the contents necessary to challenge a Postal Service determination concerning a mail preparation change.

The Public Representative also suggests a slight modification to the last sentence of the proposed rule to clarify that ''raised by the Commission'' is intended to cover situations where the Commission independently questions the Postal Service's compliance with § 3010.23(d)(2). PR Comments at 7. The Commission avers that the word ''raised'' appropriately covers all situations where compliance issues for mail preparation changes may be questioned by the Commission. However, the Commission makes a slight modification to apply the term ''raised'' to challenges by the Commission or any other party in order to simplify the language in the rule. Accordingly, final rule § 3010.23(d)(5) incorporates the slight modifications described.

C. Motion Procedure

As explained above, the final rule creates a process where the Postal Service will be required to provide published notice of all mail preparation changes in a single source with a designation of whether or not each change requires compliance with § 3010.23(d)(2). The rule also memorializes the Postal Service's burden to demonstrate compliance with the price cap rules for any issues arising from its designation of a mail preparation change. The rule does not create a separate motion procedure for issues concerning mail preparation changes as originally contemplated. The Commission analyzes and responds to comments relevant to the withdrawal of the motion procedure.

NPPC *et al.* agree with the Commission that ''existing procedures should be sufficient to allow interested parties to raise issues of price cap compliance for mail preparation changes.'' NPPC *et al.* Comments at 3. However, NPPC *et al.* contend that the ''new procedures in the revised proposal will make recourse to the existing procedures rarely necessary.'' *Id.* PostCom submits that the ''revised procedures are superior to those previously proposed'' and ''commends the Commission for its thoughtful consideration of the comments submitted on its previous proposal.'' PostCom Comments at 1.

As noted by the Public Representative, by withdrawing the motion procedure and associated filing deadline, the revised rule ''permits interested persons to challenge at any time a Postal Service's decision that a mail preparation change is not a rate change.'' PR Comments at 6. He concludes that the rule will ''close a potentially significant regulatory gap in the original proposal'' by ''providing for a method to sufficiently alert the Commission and other interested parties about mail preparation changes.'' *Id.* at 4, 5. He notes that the revised location of the rule in part 3010 ''will be more readily appreciated and that interested parties will be more likely to recognize that they may challenge the Postal Service's conclusions regarding compliance with paragraph (d)(2) of that section.'' *Id.* at 6.

The Postal Service seeks to have the Commission reinstate the initial proposed motion rule with modifications. Postal Service Comments at 2. Specifically, the Postal Service requests that the Commission reinstate:

> [T]he 30-day filing deadline for motions challenging the Postal Service's initial determination that a mail preparation change does not implicate the price cap, adopt the additional procedural provisions requested by the Postal Service in its initial Comments, and place the burden of proving 'significant' mailer costs on the proponent that asserts that a particular mail preparation change constitutes a change in rates because it redefines a price cell.

Id. (internal citations omitted).

The Postal Service contends that, without a separate procedure specific to mail preparation changes, it ''must rely on impacted mailers to come forward with evidence concerning the extent of compliance costs that a mail preparation change will impose, and without any defined process to insure that they do so accurately and completely.'' *Id.* at 23. It claims that ''[t]he Commission's proposal does not meaningfully address that problem.'' *Id.*

The Postal Service claims that the Commission revised the proposed rule ''without meaningful explanation,'' yet it also acknowledges that the Commission explained that ''its existing procedures 'should be sufficient to raise issues of price cap compliance for mail preparation changes,' that creating additional procedures would be 'redundant,' and that the revised proposed rule is meant 'to better target the specific goal of ensuring that the Postal Service properly accounts for mail preparation requirement changes under § 3010.23(d)(2).' '' [17] The Postal Service's specific complaints with respect to the Commission's explanation of the rule are that it fails to explain how ''the revised proposed rule comports with the statutory criteria and addresses the Postal Service's concerns about predictability, or acknowledges the Commission's prior statements explaining that the goal of this proceeding would be to allay those concerns.'' Postal Service Comments at 10.

The Postal Service also claims that the revised rule ''strips the rule of its critical procedural protection: the 30-day filing deadline.'' *Id.* at 9. The Postal Service explains that it is concerned that ''[i]f mailers are permitted to raise objections to mail preparation changes under the substantive standard at any time, regardless of how much time has passed since the Postal Service provided notice of the change or the stage of implementation that the change is in, then the present rulemaking completely fails to protect against unpredictable impacts on the Postal Service's pricing authority.'' *Id.* at 9–10.

In response to the Postal Service's comments, the Commission declines to create a separate motion procedure for mail preparation changes because ''existing procedures available to interested parties should be sufficient to raise issues of price cap compliance for mail preparation changes.'' Order No. 3827 at 10. As the Commission previously explained:

> Mailers may notify the Commission using the general motion procedures set forth in § 3001.21 of this chapter if they disagree with the Postal Service's determination of compliance with § 3010.23(d)(2). The rules under § 3001.21 of this chapter require motions to ''set forth with particularity the ruling or relief sought, the grounds and basis therefore, and the statutory or other authority relied upon . . .'' Accordingly, any motions filed under § 3001.21 of this chapter concerning mail preparation changes shall provide all information the mailers have to rebut the Postal Service's determination, consistent with the Commission's standard set forth in Order No. 3047.

Id. Moreover, as the rule relates to ensuring that the Postal Service is complying with the price cap rules, it is in line with the objectives and factors of the PAEA.

In response to the Postal Service's concern that it would be subject to late objections to its determination that a change does not impact the price cap, the Postal Service may file a motion with the Commission and ''seek a determination from the Commission [on the price cap impact of the change] using the procedures set forth under § 3001.21 of this chapter prior to implementation of the change.'' *Id.* at 9. Therefore, both mailers and the Postal Service may use existing procedures to resolve issues concerning the price cap impact of a mail preparation change.

In response to the Postal Service's contention that the revised rule ignores

[17] *Id.* at 9, 10 (citing Order No. 3827 at 10–11).

the primary reason for instituting the rulemaking, the main purpose of the rule was to ''ensure that the Postal Service properly accounts for the rate effects of mail preparation changes under § 3010.23(d)(2) of this chapter in accordance with the Commission's standard articulated in Order No. 3047.'' Order No. 3048 at 1–2. In accomplishing that goal, the Commission initially sought to create a more efficient process that improved upon existing procedures by proposing a new motion procedure specific to compliance issues for mail preparation changes. However, based on its review of comments and further analysis, the Commission determined that any additional motion rule would add potential inefficient redundancies. A separate motion practice would be an unnecessary addition to existing actions that could include a comment filed in a rate adjustment proceeding alerting the Commission to the potential rate impact of a mail preparation change, a Postal Service request for an advance determination on the rate impact of a mail preparation change, an interested party's motion to designate a mail preparation change as having a rate impact, or other relevant motions. In those actions, the Postal Service or any interested party is free to request discovery.[18] Therefore, the Commission disagrees with the Postal Service's comments that it needs to create a separate procedure specific to compliance issues for mail preparation changes and submits that the final rule provides a more effective way of ensuring the Postal Service complies with the price cap rules for mail preparation changes.

In addition to potential redundancies, the Commission also found that a separate motion rule would conflict with existing procedures. *See* Order No. 3827 at 10. For example, in a rate adjustment proceeding, the Commission's rules request participants focus their comments on whether the Postal Service's planned rate adjustment complies with the price cap rules. 39 CFR 3010.11(b)(1)–(2). The Commission must then determine whether the planned rate adjustments are consistent with the annual limitation and applicable law. 39 CFR 3010.11(d). This process has accommodated nearly all changes to mail preparation requirements that require compliance with the price cap rules over the past decade without issue.[19] The Commission's standard, articulated in Order No. 3047, does not disrupt this process and the Commission finds that a separate motion procedure with deadlines outside of the rate adjustment proceedings would conflict with the existing rules governing compliance with the price cap rules.

IV. Ordering Paragraphs

It is ordered:

1. Part 3010 of title 39, Code of Federal Regulations, is revised as set forth below the signature of this order, effective 30 days after publication in the **Federal Register**.

2. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

List of Subjects in 39 CFR Part 3010

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3010—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

■ 1. The authority citation of part 3010 continues to read as follows:

Authority: 39 U.S.C. 503; 3662.

■ 2. Amend § 3010.23 by adding paragraph (d)(5) to read as follows:

§ 3010.23 Calculation of percentage change in rates.

* * * * *

(d) * * *

(5) *Procedures for mail preparation changes.* The Postal Service shall provide published notice of all mail preparation changes in a single, publicly available source. The Postal Service shall file notice with the Commission of the single source it will use to provide published notice of all mail preparation changes. When providing notice of a mail preparation change, the Postal Service shall affirmatively state whether or not the change requires compliance with paragraph (d)(2) of this section. If the Postal Service's determination regarding compliance with paragraph (d)(2) of this section is raised by the Commission or any other party, the Postal Service must demonstrate, by a preponderance of the evidence, that a mail preparation change does not require compliance with paragraph (d)(2) of this section in any proceeding where compliance is at issue. In any challenge to the Postal Service's determination concerning a mail preparation change, the challenging party shall provide all information to rebut the Postal Service's determination that the change is not subject to the price cap.

* * * * *

[FR Doc. 2018–01810 Filed 1–31–18; 8:45 am]

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[18] As previously discussed, under the PAEA, the Commission retains discretion to order or permit discovery, in part due to the ''extremely compressed time schedules under which compliance review must be conducted.'' Order No. 203 at 55. In most cases, the Commission functions as a gatekeeper for limited discovery—where parties request the Commission to propound specific questions or requests on participants. This gatekeeper role filters discovery requests that may be untimely, irrelevant, intended as a leveraging tactic, or simply abusive.

[19] In Docket No. R2013–10R, although the Postal Service contended that the Full Service IMb requirement was not a rate change, the Postal Service did not argue that it was unaware of the significance of the change compared to its more routine mail preparation changes. *See* Order No. 3047 at 21, 26–27.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0138; FRL–9973–48–Region 5]

Air Plan Approval; Illinois; Nonattainment Plans for the Lemont and Pekin SO_2 Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions, which Illinois submitted to EPA on March 2, 2016, and supplemented on August 8, 2016 and May 4, 2017, for attaining the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Lemont and Pekin areas. These revisions (herein called the nonattainment plans or plans) include Illinois' attainment demonstration and other elements required under the Clean Air Act (CAA) for the two areas. In addition to an attainment demonstration, the plans address: The requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS; reasonably available control measures and reasonably available control technology (RACM/RACT); emission inventories; and contingency measures. EPA further concludes that Illinois has demonstrated that the plans' provisions provide for attainment of the 2010 1-hour primary SO_2 NAAQS in the Lemont and Pekin areas by the attainment date of October 4, 2018. EPA proposed this action on

October 5, 2017 and received one public comment in response.

DATES: This final rule is effective on March 5, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0138. All documents in the docket are listed on the *www.regulations.gov* website. 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 John Summerhays, Environmental Scientist, at (312) 886–6067 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, *summerhays.john@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What action did EPA propose and why?
II. What comments did EPA receive, and what are EPA's responses?
III. What action is EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What action did EPA propose and why?

On October 5, 2017, at 82 FR 46434, EPA proposed to approve Illinois' nonattainment plans for the Lemont and Pekin SO_2 nonattainment areas. These areas had been designated nonattainment on August 5, 2013, triggering a requirement for Illinois to submit plans to provide for attainment and to address other requirements under CAA sections 110, 172, and 192. Illinois submitted nonattainment plans for these areas on March 2, 2016, and submitted supplemental information on August 8, 2016 and May 4, 2017.

EPA's proposed rulemaking provides further background on Illinois' submittal. Within the body of this proposed rulemaking, the first section identified EPA's action designating the Lemont and Pekin areas as nonattainment, thereby triggering a requirement for Illinois to develop nonattainment plans for the areas.

The second section of the proposal provided an extensive discussion of EPA's guidance on the requirements that SO_2 nonattainment plans must meet in order to obtain approval by EPA, including requirements to: Submit an emission inventory; provide for attainment; provide for reasonable further progress (RFP); implement RACM (including RACT); implement a new source permit program; and provide contingency measures. Of particular note, the proposal discussed the circumstances under which EPA expects to find that a plan that includes emission limits with averaging times of up to 30 days adequately provides for attainment of the 1-hour NAAQS.

The third section of the proposed rulemaking discussed EPA's review of Illinois' demonstration that its plans provide for attainment in the Lemont and Pekin areas. This section discussed the use of the atmospheric dispersion model known as AERMOD, the meteorological and emissions data used in the analysis, the emission limits that Illinois relied on, and the background concentrations that Illinois used. This included a discussion of Illinois' use of a 30-day average emission limit for the Powerton Generating Station (Powerton), operated by Midwest Generation, LLC, which is located in the Pekin area. Illinois set this limit at a level of about 58 percent of the level of the 1-hour limit that Illinois found would have provided for attainment, and which Illinois supplemented with a requirement that Powerton have less than five percent of the hours in any 30-day period exceeding the 1-hour emission limit that Illinois otherwise would have set. EPA also evaluated comments that Sierra Club submitted during the State's rulemaking process, including comments related to the proposed emission limit for Powerton. Finally, this section summarized EPA's review of Illinois' attainment demonstration, concluding that Illinois' proposed limit for Powerton, as supplemented, was comparably stringent to the 1-hour limit that would have been necessary to provide for attainment in accordance with EPA's guidance, and finding more generally that Illinois adequately demonstrated that its plans provided for attainment.

The fourth section of the proposal contained EPA's review of the rules Illinois adopted to limit the sulfur content of residual and distillate fuel oil, and EPA's conclusion that these limits were enforceable and approvable.

The fifth section of the proposal explained how Illinois' plans satisfied other nonattainment planning requirements, including requirements for a comprehensive emission inventory, RACM/RACT, an adequate new source review program, RFP, and contingency measures.

The sixth section of the proposal summarized EPA's proposed action, namely that EPA proposed to approve Illinois' plans and the emission limits in the underlying rules.

The seventh section of the proposal identified the rules that EPA was proposing to approve, and the eighth section contained EPA's review of statutory requirements and executive orders applicable to the proposed rulemaking.

II. What comments did EPA receive, and what are EPA's responses?

In response to the proposed rulemaking, EPA received one comment letter, from Midwest Generation, LLC, dated November 6, 2017. The commenter indicated that it supports EPA's proposed rulemaking, provided SO_2 air quality data for the Lemont and Pekin areas from 2013 through August 2017, and commented that ''because significant SO_2 emission reductions have already occurred in the designated non-attainment areas, the Illinois EPA will soon be authorized to submit a 'clean data' petition to U.S. EPA for the ambient air monitoring sites that were the basis for the non-attainment designations.''

These comments, which support EPA's action, do not require any reassessment of the proposed rulemaking. Additionally, the proposed action did not address whether the Lemont and Pekin areas (at the monitoring sites and elsewhere) are currently attaining the SO_2 standard; rather, the action evaluated Illinois' nonattainment plans for areas and proposed to find that those plans will provide for attainment. Therefore, the comments related to recent air quality monitoring data for the areas are not relevant to this rulemaking.

III. What action is EPA taking?

EPA is taking final action to approve Illinois' submission as a SIP revision, which the state submitted to EPA on March 2, 2016, and supplemented on August 8, 2016, and May 4, 2017, for attaining the 2010 1-hour SO_2 NAAQS for the Lemont and Pekin SO_2 nonattainment areas.

These SO_2 nonattainment plans include Illinois' attainment

demonstrations for the Lemont and Pekin SO_2 nonattainment areas. These attainment demonstrations use dispersion modeling to demonstrate that the emission limits that Illinois adopted into Title 35 part 214 of the Illinois Administrative Code and submitted for EPA approval provide for air quality meeting the SO_2 NAAQS.

These limits include a 30-day average limit for the Powerton power plant in the Pekin area. Illinois' modeling demonstrated that a 1-hour limit of 6,000 pounds of SO_2 per hour for this facility, in conjunction with the other limits that Illinois adopted and submitted or otherwise has in place, provide for attainment in this area. Illinois demonstrated that a 30-day average limit of 3,452 pounds per hour is comparably stringent to a 1-hour limit of 6,000 pounds per hour at this facility. Therefore, and for reasons discussed in the proposed rulemaking, EPA finds that the limits submitted by Illinois, which for Powerton include a 30-day average limit of 3,452 pounds per hour supplemented by a requirement that emissions not exceed 6,000 pounds per hour for more than 5 percent of hours, provide for attainment of the 1-hour SO_2 NAAQS.

These nonattainment plans also satisfy requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Additionally, Illinois has previously addressed requirements regarding nonattainment area new source review. Therefore, EPA has determined that Illinois' SO_2 nonattainment plans meet the applicable requirements of CAA sections 110, 172, and 192.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 April 2, 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 17, 2018.

Cathy Stepp,

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 § 52.720:

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

■ a. In the table in paragraph (c) under ''Part 214: Sulfur Limitations'':

■ i. Revise the entries for 214.121 and 214.122 under the subheading entitled ''Subpart B: New Fuel Combustion Emission Sources''.

■ ii. Revise the entry for 214.161 under the subheading entitled ''Subpart D: Existing Liquid or Mixed Fuel Combustion Emission Sources''.

■ iii. Add new entries before 214.Appendix C for 214.600, 214.601, 214.602, 214.603, 214.604 and 214.605 under a new subheading entitled ''Subpart AA: Requirements for Certain SO_2 Sources''.

■ b. In the table in paragraph (e) add a new entry in alphabetical order for ''Sulfur dioxide (2010) nonattainment plans'' under the subheading entitled ''Attainment and Maintenance Plans''.

The additions and revisions read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
* *	*	*	*	* *
Subpart B: New Fuel Combustion Emission Sources				
214.121	Large Sources	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
214.122	Small Sources	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
* *	*	*	*	* *
Subpart D: Existing Liquid or Mixed Fuel Combustion Emission Sources				
214.161	Liquid Fuel Burned Exclusively.	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
* *	*	*	*	* *
Subpart AA: Requirements for Certain SO_2 Sources				
214.600	Definitions	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
214.601	Applicability	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
214.602	Compliance Deadline	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
214.603	Emission Limitations	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
214.604	Monitoring and Testing	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
214.605	Recordkeeping and Reporting	12/7/2015	2/1/2018, [Insert **Federal Register** citation].	
* *	*	*	*	* *

* * * * *

(e) * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* *	*	*	*	* *
Attainment and Maintenance Plans				
* *	*	*	*	* *
Sulfur dioxide (2010) nonattainment plans.	Lemont and Pekin	3/2/2016	2/1/2018, [Insert **Federal Register** citation].	
* *	*	*	*	* *

[FR Doc. 2018–01925 Filed 1–31–18; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0343; FRL–9973–49–Region 5]

Air Plan Approval; Indiana; Infrastructure SIP Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a state implementation plan (SIP) submission from Indiana regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA proposed this action on August 31, 2017, and received one public comment in response.

DATES: This final rule is effective on March 5, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0343. All documents in the docket are listed on the *www.regulations.gov* website. 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. What is the background of this SIP submission?
II. What comments were submitted on the proposed rulemaking?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is the background of this SIP submission?

A. What state submission does this rulemaking address?

This rulemaking addresses a June 10, 2016, submission from the Indiana Department of Environmental Management (IDEM) intended to address all applicable infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS. On December 28, 2016, IDEM supplemented this submittal with additional documentation intended to address the transport requirements of Section 110(a)(2)(D) for the 2012 $PM_{2.5}$ NAAQS; EPA will take action on this supplement in a separate rulemaking.

B. Why did the state make this SIP submission?

Under section 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2012 $PM_{2.5}$ NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for the NAAQS already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ [1] National Ambient Air Quality Standards'' (2007 Guidance) and has issued additional guidance documents, the most recent on September 13, 2013, entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and (2)'' (2013 Guidance). The SIP submission referenced in this rulemaking pertains to the applicable requirements of section 110(a)(1) and (2), and addresses the 2012 $PM_{2.5}$ NAAQS.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submission from Indiana that addresses the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2012 $PM_{2.5}$ NAAQS. The requirement for states to make SIP submissions of this type arises out of CAA section 110(a)(1), which states that states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(1) and (2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as SIP submissions that address the nonattainment planning requirements of part D and the prevention of significant deterioration (PSD) requirements of part C of title I of the CAA, and ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section 169A.

In this rulemaking, EPA will not take action on three substantive areas of section 110(a)(2): (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (''SSM'') at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public notice or without requiring further approval by EPA, that may be contrary to the CAA; and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31,

[1] $PM_{2.5}$ refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as ''fine'' particles.

2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas in separate rulemakings. A detailed history, interpretation, and rationale as they relate to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245).

II. What comments were submitted on the proposed rulemaking?

On August 31, 2017 (82 FR 41379), EPA proposed to approve the above-cited elements of Indiana's infrastructure SIP submission for the 2012 $PM_{2.5}$ NAAQS. In response to this proposed action, EPA received one comment from a person identifying as a ''citizen of Indiana and a law student.'' The commenter expressed support for EPA's proposed approval of the Indiana infrastructure SIP for the $PM_{2.5}$ NAAQS, but ''encourage[d] some sort of change that would be stricter on states regarding localities.'' EPA thanks the commenter for her/his thoughts and support regarding rulemakings.

III. What action is EPA taking?

EPA is taking final action to approve most elements of a submission from Indiana certifying that its current SIP is sufficient to meet the required infrastructure elements under section 110(a)(1) and (2) for the 2012 $PM_{2.5}$ NAAQS. EPA's actions for the state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) and NAAQS, are contained in the table below.

Element	2012 $PM_{2.5}$
(A)—Emission limits and other control measures	A
(B)—Ambient air quality monitoring/data system	A
(C)1—Program for enforcement of control measures	A
(C)2—PSD	A
(D)1—I Prong 1: Interstate transport—significant contribution	NA
(D)2—I Prong 2: Interstate transport—interfere with maintenance	NA
(D)3—II Prong 3: Interstate transport—prevention of significant deterioration	A
(D)4—II Prong 4: Interstate transport—protect visibility	NA
(D)5—Interstate and international pollution abatement	A
(E)1—Adequate resources	A
(E)2—State board requirements	A
(F)—Stationary source monitoring system	A
(G)—Emergency power	A
(H)—Future SIP revisions	A
(I)—Nonattainment planning requirements of part D	(*)
(J)1—Consultation with government officials	A
(J)2—Public notification	A
(J)3—PSD	A
(J)4—Visibility protection	(*)
(K)—Air quality modeling/data	A
(L)—Permitting fees	A
(M)—Consultation and participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA	No Action/Separate Rulemaking.
*	Not germane to infrastructure SIPs.

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 April 2, 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 17, 2018.

Cathy Stepp,

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 § 52.770, the table in paragraph (e) is amended by adding an entry in alphabetical order for ''Section 110(a)(2) infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS'' to read as follows:

§ 52.770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
*	*	*	*
Section 110(a)(2) infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS.	6/10/2016	2/1/2018, [Insert **Federal Register** citation].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) except visibility, (D)(ii), (E), (F), (G), (H), (J) except visibility, (K), (L), and (M).
*	*	*	*

[FR Doc. 2018–01924 Filed 1–31–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2017–0339; FRL–9973–17–Region 8]

Montana Second 10-Year Carbon Monoxide Maintenance Plan for Missoula

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to re-approve a State Implementation Plan (SIP) revision submitted by the State of Montana. On September 19, 2016, the Governor of Montana submitted to the EPA a Clean Air Act (CAA) section 175A(b) second 10-year maintenance plan for the Missoula, Montana area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This limited maintenance plan (LMP) addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. This action is being taken under sections 110 and 175A of the CAA.

DATES: Effective February 1, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R08–OAR–2017–0339. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Adam Clark, (303) 312–7104, *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The factual background for this action is discussed in detail in our September 14, 2017 direct final rule (DFR) and proposal (82 FR 43180, 82 FR 43208) approving the revised Missoula Maintenance Plan into the Montana SIP. The EPA received one adverse comment on the rulemaking and attempted to withdraw the DFR prior to the effective date of November 13, 2017. However, the EPA inadvertently did not withdraw the DFR prior to that date and the rule became prematurely effective on November 13, 2017, revising the Montana SIP to reflect the approval of the revised Missoula Maintenance Plan. In this final rulemaking, the EPA is responding to the comments submitted on the proposed revision to the Montana SIP, and is re-approving the revised Missoula Maintenance Plan into the Montana SIP. The background information found in the DFR is still relevant and our September 14, 2017 proposal provides the basis for this final action.

The EPA finds that there is good cause under section 553(d)(3) of the Administrative Procedure Act (APA) to make this action re-approving the revisions to the Montana SIP effective upon publication in the **Federal Register**. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). This rule does not create any new regulatory requirements and does not change any existing regulatory requirements. For these reasons, the EPA finds good cause under APA section 553(d)(3) for the re-approval to become effective on the date of publication of this action.

II. Response to Comments

The EPA received two anonymous public comments, one which we considered adverse, on our action to approve Montana's September 19, 2016 SIP submittal. Below is a summary of each comment and the EPA's response.

Comment: The first commenter asked whether we were ''expecting any push-back'' from businesses in extending the carbon monoxide plan for another 10 years.

Response: Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state actions, provided that they meet the criteria of the CAA. With that, the EPA notes that we did not receive any comments from any individual businesses or business groups.

Comment: The second commenter asserted that the EPA had failed to consider the effects of approving the SIP submission on the economy or energy independence as required by a March

28, 2017 Executive Order entitled ''Promoting Energy Independence and Economic Growth.'' (E. O. 13783).

Response: Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state actions, provided that they meet the criteria of the CAA. The EPA cannot consider disapproving a SIP submission or require any changes based on E. O. 13783.

III. Final Action

The EPA is re-approving the revised Missoula Maintenance Plan submitted on September 19, 2016. This maintenance plan meets the applicable CAA requirements, and we have determined it is sufficient to provide for maintenance of the 8-hour CO NAAQS over the course of the second 10-year maintenance period out to 2027. This rule, which responds to the adverse comment received, finalizes our proposed approval of the revised section of Montana's SIP.

IV. Statutory and Executive Order Reviews

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

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

In addition, the SIP does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 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 CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: January 24, 2018.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart BB—Montana

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

§ 52.1373 Control strategy: Carbon monoxide.

* * * * *

(d) Revisions to the Montana State Implementation Plan, revised Carbon Monoxide Maintenance Plan for Missoula, as submitted by the Governor on September 19, 2016 (as approved by the EPA on February 1, 2018).

[FR Doc. 2018–01854 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 124

[FRL–9971–52–OARM]

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits; Procedures for Decisionmaking; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correcting amendments.

SUMMARY: The Environmental Protection Agency (EPA) published a document in the **Federal Register** on January 9, 2017. That document revised filing and service requirements in permit appeal proceedings before the Environmental Appeals Board, but in doing so two subsections of the procedural rule were

inadvertently and unintentionally removed. This rule corrects that inadvertent removal as well as two other non-substantive typographical errors in the rule.

DATES: This final rule correction is effective on February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Ammie Roseman-Orr, Environmental Appeals Board, U.S. Environmental Protection Agency, William Jefferson Clinton Building East, 1200 Pennsylvania Ave NW, Mail Code 1103M, Washington DC 20460–0001, phone number (202) 233–0122 or by email at *roseman-orr.ammie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is the EPA issuing this rule in final form without first issuing a proposal?

Today's final rule is limited to correcting a mistake to procedural requirements for administrative adjudicatory hearings and appeals from such hearings and from permit decisions. As an amendment to a procedural rule, this final rule itself is a procedural rule. Under the Administrative Procedure Act, an agency may issue ''rules of agency organization, procedure, or practice'' without first proposing such rules for public comment. 5 U.S.C. 553(b). Accordingly, public comment is not required.

In addition, EPA has determined that this rule is effective immediately upon publication in the **Federal Register**. In general, Section 5 U.S.C. 553(d) requires that substantive rules not become effective less than 30 days after publication. However, this action involves not a substantive rule but a procedural rule. Moreover, the purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This action does not create any new regulatory requirements such that affected parties would need time to prepare before the actions take effect. To the contrary, this action merely corrects typographical errors and restores regulatory text that was inadvertently deleted thereby restoring the prior status quo. Furthermore, the absence of these provisions may result in confusion to parties as well as inefficiencies in the appeals process and thus it is in the public interest have the restoration of those provisions effective immediately. See 5 U.S.C. 553(d)(3).

II. Does this action apply to me?

This action affects parties involved in EPA administrative adjudicatory proceedings for the assessment of civil penalties, issuance of various compliance orders, and termination or suspension of certain permits, under part 22 of title 40 of the CFR. See 40 CFR 22.1. This action also affects parties involved in appeal of EPA permits under part 124 of title 40 of the CFR.

III. Background

The rule document published on January 9, 2017 (82 FR 2230), revised the filing and service procedures used in permit appeals to the Environmental Appeals Board. The EPA also revised 40 CFR 124.19(b)(1) and (2) so that the deadlines for filing a response to a petition for review are based on the date the petition for review is served, rather than the date it is filed. Subsections (3) and (4) were intended to remain unchanged but were inadvertently removed from the rule.

Additionally, in § 124.19(i)(2)(iii), the address for delivery by hand or courier to the Environmental Appeals Board incorrectly identifies the room number as 3334 when the actual room number is 3332 and language regarding methods of delivery by hand or courier was inadvertently omitted.

Finally, the language in § 124.19(i)(3)(ii) revising the service requirements to allow for service by email inadvertently contains an extra ''or'' that does not belong so that this provision of the rule now reads: ''Service must be by first class U.S. mail, by any reliable commercial delivery service, or, if agreed to by the parties, by facsimile or other electronic means, including but not necessarily limited to or email.'' Removal of the last ''or'' will make the sentence clearer.

IV. Need for Correction

As published on January 9, 2017 (82 FR 2230), the final regulation contains an error that resulted in the inadvertent removal of two procedural provisions that govern the participation of permit applicants, State, and Tribal Authorities in permit proceedings before the Environmental Appeals Board. The absence of these provisions may result in confusion to parties and inefficiencies in the appeals process and thus these provisions need to be reinstated. Additionally, revising the Environmental Appeals Board's address for delivery by hand or courier in § 124.19(i)(2)(iii) to reflect the correct room number and to include methods of delivery by hand or courier will avoid potential confusion. Finally, the superfluous ''or'' in the third sentence of § 124.19(i)(3)(ii) is confusing. Removal of that word will not change the meaning of the sentence and will make the provision clearer.

List of Subjects in 40 CFR Part 124

Environmental protection, Administrative practice and procedures.

Dated: January 22, 2018.

Donna J. Vizian,

Principal Deputy Assistant Administrator, Office of Administration and Resources Management.

Accordingly, 40 CFR part 124 is corrected as follows:

PART 124—PROCEDURES FOR DECISIONMAKING

■ 1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et. seq.;* Safe Drinking Water Act, 42 U.S.C. 300f *et. seq.;* Clean Water Act, 33 U.S.C. 1251 *et. seq.;* Clean Air Act, 42 U.S.C. 7401 *et. seq.*

■ 2. In § 124.19:

■ a. Add paragraphs (b)(3) and (4).

■ b. Revise paragraph (i)(2) introductory text and paragraph (i)(2)(iii).

■ c. Revise the third sentence of paragraph (i)(3)(ii).

The addition and revisions read as follows:

§ 124.19 Appeal of RCRA, UIC, NPDES and PSD Permits.

* * * * *

(b) * * *

(3) A permit applicant who did not file a petition but who wishes to participate in the appeal process must file a notice of appearance and a response to the petition. Such documents must be filed by the deadlines provided in paragraph (b)(1) or (2) of this section, as appropriate.

(4) The State or Tribal authority where the permitted facility or site is or is proposed to be located (if that authority is not the permit issuer) must also file a notice of appearance and a response if it wishes to participate in the appeal. Such response must be filed by the deadlines provided in paragraph (b)(1) or (2) of this section, as appropriate.

* * * * *

(i) * * *

(2) *Method of filing.* Unless otherwise permitted under these rules, documents must be filed either by using the Environmental Appeals Board's electronic filing system, by U.S. mail, or by hand delivery or courier (including delivery by U.S. Express Mail or by a commercial delivery service). In addition, a motion or a response to a motion may be submitted by facsimile if the submission contains no attachments.

Upon filing a motion or response to a motion by facsimile, the sender must, within one business day, submit the original copy to the Clerk of the Environmental Appeals Board either electronically, by mail, or by hand delivery or courier. The Environmental Appeals Board may by order require filing by facsimile or the Board's electronic filing system, subject to any appropriate conditions and limitations.

* * * * *

(iii) *Filing by hand delivery or courier.* Documents delivered by hand or courier (including deliveries by U.S. Express Mail or by a commercial delivery service) must be delivered to the Clerk of the Environmental Appeals Board at: U.S. Environmental Protection Agency, Environmental Appeals Board, WJC East Building, 1201 Constitution Avenue NW, Room 3332, Washington, DC 20004.

(3) * * *

(ii) *Service requirements for parties.* * * * Service must be by first class U.S. mail, by any reliable commercial delivery service, or, if agreed to by the parties, by facsimile or other electronic means, including but not necessarily limited to email. * * *

* * * * *

[FR Doc. 2018–02055 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 18–12]

Annual Adjustment of Civil Monetary Penalties To Reflect Inflation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Inflation Adjustment Act) requires the Federal Communications Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase.

DATES: Effective February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Lisa Gelb, Enforcement Bureau, 202–418–1479.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, DA 18–12, adopted and released on January 5, 2018. The document is available for download at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0105/DA-18-12A1.pdf.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554.

The Bipartisan Budget Act of 2015 included, as Section 701 thereto, the 2015 Inflation Adjustment Act, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), to improve the effectiveness of civil monetary penalties and maintain their deterrent effect. Under the act, agencies are required to make annual inflationary adjustments by January 15 each year. The adjustments are calculated pursuant to Office of Management and Budget (OMB) guidance. OMB issued guidance on December 15, 2017, and this Order follows that guidance. We therefore update the civil monetary penalties set forth in the Commission's rules, to reflect an annual inflation adjustment that derives from OMB's cost-of-living multiplier of 1.02041.

Paperwork Reduction Act

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

Federal Communications Commission.

Lisa S. Gelb,

Deputy Chief, Enforcement Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 34–39, 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 310, 332, 1403, 1404, 1451, 1452, 1455; 28 U.S.C. 2461 note.

Subpart A—General Rules of Practice and Procedure

■ 2. Section 1.80 is amended by revising the table in Section III of the note to paragraph (b)(8) and revising paragraph (b)(9) to read as follows:

§ 1.80 Forfeiture proceedings.

* * * * *

(b) * * *

(8) * * *

Note to paragraph (b)(8) * * *

Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors

* * * * *

Violation	Statutory amount ($)
Sec. 202(c) Common Carrier Discrimination	$11,784, $589/day.
Sec. 203(e) Common Carrier Tariffs	$11,784, $589/day.
Sec. 205(b) Common Carrier Prescriptions	$23,566.
Sec. 214(d) Common Carrier Line Extensions	$2,356/day.
Sec. 219(b) Common Carrier Reports	$2,356/day.
Sec. 220(d) Common Carrier Records & Accounts	$11,784/day.
Sec. 223(b) Dial-a-Porn	$122,110/day.
Sec. 227(e) Caller Identification	$11,278/violation.
	$33,833/day for each day of continuing violation, up to $1,127,799 for any single act or failure to act.
Sec. 364(a) Forfeitures (Ships)	$9,819/day (owner).

Violation	Statutory amount ($)
Sec. 364(b) Forfeitures (Ships)	$1,964 (vessel master).
Sec. 386(a) Forfeitures (Ships)	$9,819/day (owner).
Sec. 386(b) Forfeitures (Ships)	$1,964 (vessel master).
Sec. 634 Cable EEO	$870/day.

(9) *Inflation adjustments to the maximum forfeiture amount.* (i) Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74 (129 Stat. 599–600), which amends the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, Public Law 101–410 (104 Stat. 890; 28 U.S.C. 2461 note), the statutory maximum amount of a forfeiture penalty assessed under this section shall be adjusted annually for inflation by order published no later than January 15 each year. Annual inflation adjustments will be based on the percentage (if any) by which the CPI–U for October preceding the date of the adjustment exceeds the prior year's CPI–U for October. The Office of Management and Budget (OMB) will issue adjustment rate guidance no later than December 15 each year to adjust for inflation in the CPI–U as of the most recent October.

(ii) The application of the annual inflation adjustment required by the foregoing Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 results in the following adjusted statutory maximum forfeitures authorized by the Communications Act:

U.S. Code citation	Maximum penalty after 2018 inflation adjustment
47 U.S.C. 202(c)	$11,784
	589
47 U.S.C. 203(e)	11,784
	589
47 U.S.C. 205(b)	23,566
47 U.S.C. 214(d)	2,356
47 U.S.C. 219(b)	2,356
47 U.S.C. 220(d)	11,784
47 U.S.C. 223(b)	122,110
47 U.S.C. 227(e)	11,278
	33,833
	1,127,799
47 U.S.C. 362(a)	9,819
47 U.S.C. 362(b)	1,964
47 U.S.C. 386(a)	9,819
47 U.S.C. 386(b)	1,964
47 U.S.C. 503(b)(2)(A)	49,096
	490,967
47 U.S.C. 503(b)(2)(B)	196,387
	1,963,870
47 U.S.C. 503(b)(2)(C)	397,251
	3,666,930
47 U.S.C. 503(b)(2)(D)	19,639
	147,290
47 U.S.C. 503(b)(2)(F)	112,780
	1,127,799
47 U.S.C. 507(a)	1,945
47 U.S.C. 507(b)	285
47 U.S.C. 554	870

* * * * *

[FR Doc. 2018–01990 Filed 1–31–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 171023999–8070–02]

RIN 0648–BH35

Fisheries of the Northeastern United States; Black Sea Bass Fishery; 2018 February Recreational Season Modification

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

ACTION: Final rule.

SUMMARY: NMFS is implementing regulations to open a 2018 February recreational season in the Federal black sea bass fishery. This action provides additional recreational fishing opportunities in winter, while maintaining management measures to prevent overfishing consistent with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. This rule is intended to inform the public of this new 2018 recreational season.

DATES: Effective February 1 through February 28, 2018.

ADDRESSES: Copies of the Environmental Assessment (EA), Regulatory Flexibility Act Analyses, and other supporting documents for the action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901.

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

SUPPLEMENTARY INFORMATION:

General Background

Black sea bass are jointly managed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) as part of the joint Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). States manage black sea bass within 3 nautical miles (4.83 km) of their coasts under the Commission's plan. The applicable Federal regulations govern vessels and individual anglers fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a Federal black sea bass charter/party vessel permit, regardless of where they fish. This rule applies to black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35 E 13.3′ N lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border.

This action implements the addition of a Federal recreational black sea bass fishing season during February of 2018. Additional background information regarding the development of this action was provided in the proposed rule (83 FR 780; January 8, 2018) and is not repeated here. The Federal recreational measures for the remainder of 2018 are still in development and will be implemented through a separate rulemaking later this spring.

Final Action

This action implements a 28-day winter season for the 2018 recreational black sea bass fishery during the month of February. The current black sea bass recreational management measures of a 12.5-inch (31.75-cm) minimum size and 15-fish possession limit still apply during this February season. As explained in the proposed rule, this action responds to the favorable 2016 benchmark stock assessment for black sea bass, and is intended to increase recreational fishing access to a stable stock at a time of year when few other recreational species are available.

Two states, North Carolina and Virginia, have formally declared their intent to participate in the February 2018 recreational season. To confirm their participation, both states

submitted a plan to offset their expected harvest during this winter season through their recreational management measures for remainder of the 2018 fishing year.

Commission-based measures implemented by states may vary by state, and differ from the Federal water measures. Because only Virginia and North Carolina have committed to participate in this winter season, the fishery will only be open for these states. Federal permit holders are required to adhere to the more restrictive set of measures irrespective of whether the vessel is fishing in state or Federal waters. Similarly, private anglers must adhere to the recreational measures implemented by the state in which the fish will be landed as all the state-implemented measures place restrictions on season, minimum fish size, and per-angler possession limit. For additional information on state-implemented management measures, please contact the marine fisheries management agency for the state in question or the Commission (*www.asmfc.org*; 703–842–0740).

Comments and Responses

The public comment period for the proposed rule ended on January 23, 2018. Thirteen comments were received from the public on this rule. Many of the comments expressed similar concerns.

Comment 1: One commenter was dissatisfied with the regulatory flexibility analysis (RFA) process and believed that more input from small businesses should have been taken into account during the development stage of this rule.

Response 1: Thorough RFA analyses were prepared for this action consistent with Small Business Administration guidance. The action was also discussed at several public Council and Commission meetings where the concerns of small businesses were considered. This comment did not raise specific issues regarding the proposed rule or the economic impact analyses summarized in the initial RFA for this action. Rather, the commenter stated frustrations with the RFA process in general, stating that RFA regulations need to be updated and the small business community needs to be better included in policy discussions during their development. These are larger changes that are outside the purview of this action.

Comment 2: One commenter was in favor of this action and is looking forward to increased fishing opportunity.

Response 2: NMFS agrees and notes that increased opportunity is a key purpose of this action.

Comment 3: Several commenters opposed implementation of the proposed season, stating concerns over the reduction in the recreational harvest limit for the rest of the 2018 fishing year, the inability of northern states to adequately participate due to weather conditions, the unfavorable coastal distribution of black sea bass in February, and the feasibility of the season overall. Many of these commenters noted that better opportunities would be created by lengthening the existing seasons into April or October or changing the bag limits.

Response 3: The purpose of this action is to create more recreational fishing access and opportunity at a time when other options are limited or restricted in the winter. There are more varied recreational opportunities in the later months of the year. Only Virginia and North Carolina have committed to participate in this February season, so only those states will need to account for any catch during the rest of the 2018 fishing year. The expected harvest from these two states is expected to be minimal and will not appreciably reduce the quota available for the summer and fall fishery.

Comment 4: One commenter was upset about Federal agencies' varied interpretations and implementations of the National Environmental Policy Act (NEPA), arguing that state and local governments should play a larger role in cooperative actions to better represent the ''human environment.''

Response 4: A full environmental assessment (EA) was prepared consistent with applicable NEPA guidance and Council for Environmental Quality (CEQ) requirements. This action was also developed with full collaboration from state agencies through the Commission. No comments were received that raised specific concerns or that noted deficiencies with the prepared NEPA analyses in support of this action.

Comment 5: The Massachusetts Division of Marine Fisheries (MA DMF) submitted a comment raising concerns about the lack of data, reporting, and accountability during Wave 1 in the recreational fishery. They also expressed concern about the potential implications of this season on future recreational rulemaking for states at the Commission level, and Council decisions at the Federal level.

Response 5: The Council and Commission openly acknowledged these concerns during this action's development. Furthermore, NMFS agrees, which is why the 2018 fishing opportunity is restricted to February and is, by design, a small scale endeavor to increase access with minimum risk. The Council is considering options to address the noted reporting and accountability issues in its development of the Wave 1 recreational Letter of Authorization program for 2019 and future years. NMFS encourages MA DMF to continue raising these concerns with the Council and Commission during continued development of a Wave 1 recreational black sea bass fishery.

Comment 6: One commenter asked that we protect the livelihoods of commercial fishermen.

Response 6: NMFS agrees and considers this a critical component of its overall mandate. However, this comment does not pertain to the subject action, which involves the recreational fishery.

Comment 7: One commenter claimed that black sea bass are intelligent and should not be farmed to extinction.

Response 7: The recent 2016 benchmark stock assessment showed that wild black sea bass populations are thriving at nearly three times the biomass target, and not at risk of extinction. Also, this action pertains to recreational fishing activities, not aquaculture or marine farming practices.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for this rule, to ensure that the action is in place on or about February 1, 2018. This action implements an additional Federal black sea bass recreational season during February 2018. A delay in its

effectiveness would reduce the length of the open winter season; unnecessarily disadvantaging recreational anglers that wish to participate, and limiting the fishing opportunity that this action was meant to create.

Furthermore, regulated parties do not require any additional time to come into compliance with this rule. Unlike actions that require an adjustment period, charter/party operators will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the existing management measures for black sea bass while the charter/party operators are engaged in fishing activities during the new open season. This action has been discussed at multiple Council and Commission public meetings throughout its development and is expected by the recreational fishing sector.

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on completion of the EA in support of the recommendations developed by the Council and Commission. Documentation in support of the Council's recommended specifications is required for us to provide the public with information from the environmental and economic analyses, as required in rulemaking, and to evaluate the consistency of the Council's recommendation with the Magnuson-Stevens Act and other applicable law. The Council's decision to recommend a February season was not final until December 13, 2017, and a complete document was finalized in late December 2017. Due to this tight timeline, we were unable to prepare this action early enough to allow for both an appropriate public comment period and a 30-day delay in effectiveness. The proposed rule published on January 8, 2018, with a 15-day comment period ending January 23, 2018. This action creates an additional Federal recreational season for black sea bass and increases fishing opportunity and access in the winter that would otherwise be constrained under the current seasons. If this final rule were delayed for 30 days, the proposed 28-day recreational season would be severely shortened or may not become effective at all. This would diminish any opportunity created by opening a winter season, and would be contrary to the purpose of the action. For these reasons, a 30-day delay in effectiveness would be contrary to the public interest and is therefore waived.

Final Regulatory Flexibility Analysis

The final regulatory flexibility analysis (FRFA) included in this final rule was prepared pursuant to 5 U.S.C. 604(a), and incorporates the initial regulatory flexibility analysis (IRFA) and a summary of analyses completed to support the action. A public copy of the environmental assessment/IRFA is available from the Council (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS received one comment on the RFA process in general, stating that RFA regulations need to be updated and the small business community needs to be afforded more inclusion in policy discussions during their development. However, this comment did not raise specific issues regarding the proposed rule or the economic analyses summarized in the IRFA. Refer to the ''Comments and Responses'' section of this preamble for more detail. No changes to the proposed rule are necessary as a result of the public comments.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This final rule affects small entities engaged in recreational fish harvesting operations within the black sea bass fishery. For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those affected by this action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. Because of this, some individually permitted vessels may be part of the same firm because they have the same owner for the purpose of this analysis.

In terms of the RFA, a business primarily engaged in for-hire fishing activity is classified as a small business if it has combined annual receipts not in excess of $7.5 million. The current ownership data set used for this analysis is based on calendar year 2016 (the most recent complete year available) and contains average gross sales associated with those permits for calendar years 2014 through 2016. According to the ownership database, there were 406 for-hire permits that generated revenues from recreational fishing for various species during the 2014–2016 period. Of these permits, there were 328 that were not affiliated with any other ownership group. The remaining 78 for-hire vessels were comprised of affiliated ownership groups with between two and six for-hire vessels for a total of 359 for-hire affiliate firms; all of which are categorized as small businesses. Although it is not possible to derive what proportion of the overall revenues came from specific fishing activities, further analysis conducted by the Council and NMFS during the development of this action identified that in 2016 there were 291 for-hire entities that recreationally caught black sea bass. In 2013, the last year that a recreational black sea bass fishery was open in January and February, 331 for-hire firms caught black sea bass recreationally; however, only 39 of those were active during the Wave 1 (January and February) period. While these are the best available estimates of potential participation in the February season implemented by this action, these numbers are not necessarily indicative of the number of entities that will actually participate. Overall, participation is expected to be low as only Virginia and North Carolina declared into the fishery, and general comments on the proposed rule suggest that businesses are primarily promoting and planning for the busier summer and fall seasons.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

NMFS is implementing the Council-recommended final rule to open a February recreational season in the 2018 black sea bass fishery to satisfy the Magnuson-Stevens Act requirements to ensure that fish stocks are not subject to overfishing, while allowing the greatest access to the fishery, and opportunity to

achieve optimum yield. The objective of this action is to increase fishing opportunity while maintaining catch within the recreational harvest limit and annual catch limit.

As described in the proposed rule for this action, two other alternatives to the approved action were considered. Maintaining the status quo with no winter fishing did not take advantage of the favorable stock status or provide any additional access or opportunity in the recreational black sea bass fishery. Opening the fishery for both January and February could have created more recreational fishing opportunity in 2018; however, given the lack of recreational data available, the time constraints involved, and the potential disproportionate impacts to state recreational fisheries later in the year, this alternative was not selected. The action described in this final rule was chosen as the best feasible way to increase recreational fishing opportunity in the black sea bass fishery in 2018 with the lowest potential negative impact.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide was prepared and will be sent to all holders of Federal charter/party permits issued for the black sea bass fishery. In addition, copies of this final rule and guide (*i.e.,* permit holder letter) are available from NMFS (see **ADDRESSES**) and at the following website: *www.greateratlantic.fisheries.noaa.gov.*

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 29, 2018.

Chris Oliver,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

§ 648.146 [Suspended]

■ 2. Section 648.146 is suspended.

■ 3. Section 648.150 is added to subpart I to read as follows:

§ 648.150 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from February 1 through February 28, May 15 through September 21, and October 22 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

[FR Doc. 2018–02025 Filed 1–31–18; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 22
Thursday, February 1, 2018

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0049; Product Identifier 2017–CE–031–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 172N, 172P, 172Q, 172RG, F172N, F172P, FR172K, R172K, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 182R, T182, F182P, F182Q, F182RG, R182, TR182, 206, P206/TP206, U206/TU206, 207/T207, 210–5 (205), 210–5A (205A), 210B, 210C, 210D, 210E, 210F, and T210F airplanes. This proposed AD was prompted by a report of cracks found in the lower area of the forward cabin doorpost bulkhead. This proposed AD would require repetitively inspecting the lower forward doorpost at the strut attach fitting for cracks and making all necessary repairs. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 19, 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., Textron Aviation Customer Service, One Cessna Blvd., Wichita, Kansas 67215; telephone: (316) 517–5800; email: *customercare@txtav.com;* internet: *www.txtav.com.* You may review 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.

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–2017–0049; or in person at Docket Operations 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 Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4155; fax: (316) 946–4107; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@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–2017–0049; Product Identifier 2017–CE–031–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 a report from an operator of one of the affected Textron Aviation Inc. model airplanes that cracks were found in the lower area of the forward cabin doorpost bulkhead. Further investigation revealed more than four dozen similar cracks on Textron Aviation Inc. 100 and 200 airplanes. It has been determined that the cracks result from metal fatigue.

This condition, if not detected and addressed, could result in failure of the wing strut attach point during operation, which could result in loss of control.

Related Service Information Under 1 CFR Part 51

We reviewed Cessna Single Engine Accomplishment Instructions SEB95–19, dated December 29, 1995; and Cessna Single-Engine Accomplishment Instructions SEB93–5R1, Revision 1, dated September 8, 1995. As applicable, the service information describes procedures for repetitively inspecting the lower area of the forward cabin doorposts for cracks and repairing any cracks found by modifying the area with the applicable Cessna service kit. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

We reviewed Cessna Single Engine Service Bulletin SEB93–5, Revision 1, dated September 8, 1995, and Cessna Single Engine Service Bulletin SEB95–19, dated December 29, 1995. As applicable, these service bulletins provide the manufacturer's recommended compliance times for the initial and repetitive inspections.

These service bulletins also specify a terminating action for the repetitive inspections when the applicable Cessna repair service kit is installed if cracks are found.

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 repetitively inspecting the lower area of the forward cabin doorposts for cracks and repairing any cracks found by modifying the area with the applicable Cessna service kit.

Costs of Compliance

We estimate that this proposed AD affects 14,653 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
Inspect the lower area of the forward cabin doorposts for cracks.	1.5 work-hours × $85 per hour = $127.50	Not applicable	$127.50	$1,868,257.50

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Install Cessna Single-Engine Service Kit SK172–147	24 work-hours × $85 per hour = $2,040	$646	$2,686
Install Cessna Single-Engine Service Kit SK182–115	24 work-hours × $85 per hour = $2,040	920	2,960
Install Cessna Single-Engine Service Kit SK206–42C	24 work-hours × $85 per hour = $2,040	500	2,540
Install Cessna Single-Engine Service Kit SK207–19 ...	24 work-hours × $85 per hour = $2,040	587	2,627
Install Cessna Single-Engine Service Kit SK210–156	24 work-hours × $85 per hour = $2,040	952	2,992

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, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances 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–2017–0049; Product Identifier 2017–CE–031–AD.

(a) Comments Due Date

We must receive comments by March 19, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company) model airplanes, that are certificated in any category:

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Table 1 to paragraph (c) of this AD – Affected Models and Serial Numbers

Model	Serial Numbers
172N	17272885 through 17274009
172P	17274010 through 17276654
172Q	17275869, 17275927 through 17275934, 17275952, 17275959, 17275960, 17275962, 17275964, 17275965, 17275967,17275968,17275969,17275971, 17275992, 17275999,17276002, 17276005, 17276029, 17276032, 17276042, 17276045, 17276051, 17276052, 17276054, 17276101,17276109, 17276140, 17276147, 17276188, and 17276211
172RG	691, 172RG0001 through 172RG1191
F172N	F17201910 through F17202039
F172P	F17202040 through F17202254
FR172K	FR17200656 through FR17200675
R172K	R1723200 through R1723454
182E	18253599 through 18254423
182F	18254424 through 18255058
182G	18255059 through 18255844
182H	634 and 18255846 through 18256684
182J	18256685 through 18257625
182K	18255845, 18257626 through 18257698, and 18257700 through 18258505
182L	18258506 through 18259305
182M	18257699 and 18259306 through 18260055
182N	18260056 through 18260825
182P	675, 18260826 through 18263478, and 18263480 through 18265175
182Q	18263479, 18265176 through 18267301, and 18267303 through 18267715
182R	18268542 through 18268586
182R/T182	18267302 and 18267716 through 18268541
F182P	F18200001 through F18200025
F182Q	F18200026 through F18200169
F182RG	FR18200001through FR18200070
R182	R18200002 through R18200583
R182/TR182	R18200001 and R18200584 through R18202039
206	206-0001 through 206-0275
P206/TP206	P206-0001 through P206-0603 and P20600604 through P20600647
U206/TU206	676, U206-0276 through U206-1444, and U20601445 through U20607020

207/T207	20700001 through 20700788
210-5 (205)	641, 205-0001 through 205-0480, 205-0551, and 205-0556 through 205-0577
210-5A (205A)	205-0481 through 205-0550 and 205-0552 through 205-0555
210B	21057841 through 21058085
210C	21058086 through 21058139 and 21058141 through 21058220
210D	21058221 through 21058510
210E	21058511 through 21058715
210F	21058716 through 21058818
T210F	T210-0001 through T210-0197

BILLING CODE 4910–13–C

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracks found in the lower area of the forward cabin doorpost bulkhead. We are issuing this AD to detect and address cracking of the wing strut attach point. The unsafe condition, if not addressed, could result in failure of the wing in operation, which could result in loss of control.

(f) Compliance

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

(g) Inspections

At the following compliance times, visually inspect the lower forward doorpost at the strut attach fitting for cracks. Do the inspection following Cessna Single Engine Accomplishment Instructions SEB95–19, dated December 29, 1995, and Cessna Single-Engine Accomplishment Instructions SEB93–5R1, dated September 8, 1995, as applicable. During the inspection, pay special attention to the contour of the wing strut support fitting. If cracks are present, they should be visible at the intersection of the doorpost and the forward doorpost bulkhead.

(1) As of the effective date of this AD, airplanes that have accumulated less than 4,000 hours time-in-service (TIS): Initially inspect upon reaching 4,000 hours TIS or within the next 200 hours TIS after the effective date of this AD, whichever occurs later.

(2) As of the effective date of this AD, airplanes that have accumulated 4,000 hours TIS or more: Initially inspect within the next 200 hours TIS after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first.

(h) Repair Cracks

If cracks are found during any inspection required in paragraph (g) or paragraph (i) of this AD, before further flight, install the applicable service kit as specified in Cessna Single Engine Accomplishment Instructions SEB95–19, dated December 29, 1995, and Cessna Single-Engine Accomplishment Instructions SEB93–5R1, dated September 8, 1995, as applicable.

(i) Repetitive Inspections

(1) If no cracks are found during the initial inspection required in paragraph (g) of this AD, repetitively thereafter inspect every 12 months or 1,000 hours TIS, whichever occurs first, as long as no cracks are found. Do the inspections following the applicable service information specified in paragraph (g) of this AD.

(2) If cracks were found during any inspection required in paragraph (g) or paragraph (i)(1) of this AD, repetitively thereafter inspect at intervals not to exceed 1,000 hours TIS after installing the applicable service kit. These repetitive inspections should be done following the applicable Accomplishment Instructions of the service information specified in paragraph (g) of this AD to the fullest extent while additionally looking for cracks extending beyond the added repair parts.

(j) Contacting the Manufacturer

If cracks are found that extend beyond the service kit doublers that were installed as required in paragraph (h) of this AD during any inspection required in paragraph (i)(2) of this AD, before further flight, contact the manufacturer at the address specified in paragraph (m)(2) of this AD for an FAA-approved repair scheme designed specifically for this AD and incorporate that repair.

(k) Credit for Previous Actions

(1) For the following Textron Aviation Inc. model airplanes, credit will be given for the initial inspection required by paragraph (g) of this AD if done before the effective date of this AD following the Accomplishment Instructions in Cessna Single Engine Service Bulletin SEB93–5, dated March 26, 1993.

(i) Model 210–5 (205) airplanes, serial numbers (S/N) 205–0551 and 205–0556 through 205–0577.

(ii) Model 206 airplanes, S/N 206–0094 and 206–0138 through 206–0275.

(iii) Model P206/TP206 airplanes, S/N P206–0001 through P206–0603 and P20600604 through P20600647.

(iv) Model U206/TU206 airplanes, S/N 676, U206–0276 through U206–1444, and U20601445 through U20607020.

(v) Model 207/T207 airplanes, S/N 20700001 through 20700788.

(2) For Textron Aviation Inc. Model U206/TU206 airplanes, S/N 676, U206–0276 through U206–1444, and U20601445 through U20607020: Credit will be given for the repair required in paragraph (h) of this AD if done before the effective date of this AD following the Accomplishment Instructions in Cessna Single Engine Service Bulletin SEB93–5, dated March 26, 1993.

(3) For Textron Aviation Inc. Model 207/T207 airplanes, S/N 20700001 through 20700788: No credit will be given for the repair required in paragraph (h) of this AD if done before the effective date of this AD following the Accomplishment Instructions in Cessna Single Engine Service Bulletin SEB93–5, dated March 26, 1993.

(l) 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 (m) 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.

(m) Related Information

(1) For more information about this AD, contact Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4155; fax: (316) 946–4107; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov*.

(2) For service information identified in this AD, contact Textron Aviation Inc., Textron Aviation Customer Service, One Cessna Blvd., Wichita, Kansas 67215; telephone: (316) 517–5800; email: *customercare@txtav.com;* internet: *www.txtav.com*. You may review 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 January 24, 2018.

Pat Mullen,

Acting Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–01923 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1118; Product Identifier 2017–NE–40–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Rolls-Royce Corporation (RRC) model 250–C turboshaft engines. This proposed AD was prompted by several reports of engine power loss, one of which resulted in a fatal helicopter accident. This proposed AD would require removal of the bearing assembly, part number (P/N) 2544198, in the power turbine governor (PTG) and its replacement with a bearing assembly eligible for installation. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 19, 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 Rolls-Royce Corporation, 450 South Meridian Street, Mail Code NB–02–05, Indianapolis, IN 46225; phone: 317–230–3774; email: *indy.pubs.services@rolls-royce.com;* internet: *www.rolls-royce.com.* 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 781–238–7759.

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–2017–1118; or in person at Docket Operations 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 Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago ACO Branch, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; phone: 847–294–8180; fax: 847–294–7834; email: *john.tallarovic@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–2017–1118; Product Identifier 2017–NE–40–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 were prompted to issue this NPRM based upon several reports of loss of engine power on certain RRC model 250–C turboshaft engines installed on single-engine helicopters. One of these instances of power loss resulted in a fatal helicopter accident on May 4, 2016.

During the course of the investigation of the 2016 fatal accident, RRC determined that the root cause of this engine power loss was the failure of the bearing assembly, P/N 2544198, in the PTG, due to lack of lubrication. Although RRC had issued a service bulletin in 2009 to address the failure of this bearing assembly, our risk assessment had not supported issuance of an AD at that time. Based on more recent service experience, and the fatal accident in 2016, we are now proposing an AD to remove the affected bearing assembly in the PTG and replace it with a bearing assembly with a new design. This condition, if not addressed, could result in failure of the PTG, failure of the engine, in-flight shutdown, and forced autorotation landing or accident.

Related Service Information

We reviewed Rolls-Royce Corporation Commercial Engine Bulletin (CEB) 1402, Revision 2, dated February 4, 2009. The CEB provides guidance on replacing the P/N 2544198 bearing assembly in the PTG with a bearing assembly eligible for installation.

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 removal of the affected bearing assembly in the PTG and its replacement with a bearing assembly eligible for installation.

Costs of Compliance

We estimate that this proposed AD affects 2,928 engines installed on 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
Remove and replace PTG bearing assembly	8 work-hours × $85 per hour = $680	$1,700	$2,380	$6,968,640

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

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):

Roll-Royce Corporation (Type Certificate previously held by Allison Engine Company): Docket No. FAA–2017–1118; Product Identifier 2017–NE–40–AD.

(a) Comments Due Date

We must receive comments by March 19, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Corporation (RRC) model 250–C10D, 250–C18, 250–C18A, 250–C18B, 250–C18C, 250–C19, 250–C20, 250–C20B, 250–C20C, 250–C20F, 250–C20J, 250–C20R, 250–C20R/1, 250–C20R/2, 250–C20R/4, 250–C20S, 250–C20W, 250–C28, 250–C28B, 250–C28C, 250–C30, 250–C30G, 250–C30G/2, 250–C30M, 250–C30P, 250–C30S, and 250–C30U turboshaft engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7323, Turbine Governor.

(e) Unsafe Condition

This AD was prompted by several reports of loss of power, one of which resulted in a fatal helicopter accident. We are issuing this AD to prevent failure of the bearing assembly in the power turbine governor (PTG). The unsafe condition, if not addressed, could result in failure of the PTG, failure of the engine, in-flight shutdown, and forced autorotation landing or accident.

(f) Compliance

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

(g) Required Actions

(1) Remove the bearing assembly, part number 2544198, from the PTG in accordance with the compliance times in Figure 1 to paragraph (g) of this AD, or within 90 days after the effective date of this AD, whichever occurs later.

FIGURE 1 TO PARAGRAPH (g)—COMPLIANCE TIMES

PTG operational hours (time since new/time since last overhaul)	Compliance time
0 to 750	Not later than 750 hours.
751 to 1000	Not later than 1,000 hours.
1001 to 1250	Not later than 1,250 hours.
1251 to 1500	Not later than 1,500 hours.
1501 or greater	At the next removal of the PTG for any reason.

(2) After such removal, replace the affected bearing assembly in the PTG with a part eligible for installation before further flight.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago 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 Chicago ACO Branch, send it to the attention of the person identified in paragraph (i)(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.

(i) Related Information

(1) For more information about this AD, contact John Tallarovic, Aerospace Engineer, Chicago ACO Branch, FAA, 2300 E Devon Ave., Des Plaines, IL 60018; phone: 847–294–8180; fax: 847–294–7834; email: *john.tallarovic@faa.gov.*

(2) For service information identified in this AD, contact Rolls-Royce Corporation, 450 South Meridian Street, Mail Code NB–02–05, Indianapolis, IN 46225; phone: 317–230–3774; email: *indy.pubs.services@rolls-royce.com;* internet: *www.rolls-royce.com.* You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued in Burlington, Massachusetts, on January 25, 2018.

Robert J. Ganley,

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

[FR Doc. 2018–01900 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1083; Airspace Docket No. 17–ACE–13]

Proposed Amendment of Class D and E Airspace; Kansas City, MO; and Revocation of Class E Airspace; Kansas City, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace at Charles B. Wheeler Downtown Airport, Kansas City, MO; remove Class E airspace designated as an extension to Class D airspace at Charles B. Wheeler Downtown Airport; and amend Class E airspace extending upward from 700 feet above the surface at Kansas City International Airport, Kansas City, MO, and Charles B. Wheeler Downtown Airport. The FAA is proposing this action due to the decommissioning of the Riverside VHF omnidirectional range (VOR) facility, which provided navigation guidance for the instrument procedures to Charles B. Wheeler Downtown Airport. The VOR has been decommissioned as part of the VOR Minimum Operational Network (MON) Program. This action also would amend the airspace designations of Class D airspace and Class E airspace extending upward from 700 feet above the surface for these airports. Additionally, the geographic coordinates and airport name are being updated to coincide with the FAA's aeronautical database. This action is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Comments must be received on or before March 19, 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 (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–1083; Airspace Docket No. 17–ACE–13 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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 support IFR operations at Charles B. Wheeler Downtown Airport, and Kansas City International Airport, Kansas City, MO.

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. Commenters 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–2017–1083; Airspace Docket No. 17–ACE–13.'' 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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 that would:

Amend the Class D airspace at Charles B. Wheeler Downtown Airport by

updating the header of the airspace designation to Kansas City, MO, (from Kansas City Charles B. Wheeler Downtown Airport, MO) to comply with FAA Order 7400.2L, Procedures for Handling Airspace Matters; adding an extension 1 mile each side of the 012° bearing from the Charles B. Wheeler Downtown RWY 19 LOC from the 4.2-mile radius to 4.4 miles from the airport; adding an extension 1 mile each side of the 013° bearing from the airport from the 4.2-mile radius to 4.3 miles north of the airport; adding an extension 1 mile each side of the 215° bearing from the Charles B. Wheeler Downtown RWY 03 LOC from the 4.2-mile radius to 4.5 miles northeast of the airport; adding an extension 1 mile each side of the 218° bearing from the airport from the 4.2-mile radius to 5 miles south of the airport; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Remove the Class E airspace designated as an extension to Class D airspace at Charles B. Wheeler Downtown Airport as the airspace is no longer required; and

Amend Class E airspace extending upward from 700 feet above the surface at Kansas City, MO, by updating the header of the airspace designation to Kansas City, MO, (from Kansas City International Airport, MO) to comply with FAA Order 7400.2L; updating the name and geographic coordinates of Charles B. Wheeler Downtown Airport (previously Kansas City Downtown Airport) and the geographic coordinates of Sherman Army Airfield (AAF), KS, to coincide with the FAA's aeronautical database; removing the Kansas City VORTAC, DOTTE LOM, Riverside VOR/DME, ILS RWY 19R localizer, ILS RWY 19 localizer, ILS RWY 1L localizer, and ILS RWY 1R localizer from the airspace description; removing all current extensions at Kansas City International Airport and Charles B. Wheeler Downtown Airport; and adding an extension 2 miles each side of the 215° bearing from the Charles B. Wheeler Downtown RWY 03 LOC from the 6.7-mile radius to 8.7 miles south of the Charles B. Wheeler Downtown Airport.

Airspace reconfiguration is necessary due to the decommissioning of the Riverside VOR as part of the VOR MON Program and for the safety and management of IFR operations at these airports.

Class D and E airspace designations are published in paragraphs 5000, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, 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 proposed 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 5000 Class D Airspace.

* * * * *

ACE MO D Kansas City, MO [Amended]

Charles B. Wheeler Downtown Airport, MO
(Lat. 39°07′23″ N, long. 94°35′34″ W)
Charles B. Wheeler Downtown RWY 19 LOC
(Lat. 39°06′50″ N, long. 94°35′44″ W)
Charles B. Wheeler Downtown RWY 03 LOC
(Lat. 39°07′40″ N, long. 94°35′17″ W)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 4.2-mile radius of Charles B. Wheeler Downtown Airport, excluding that airspace within the Kansas City, MO Class B airspace area; and within 1 mile each side of the 012° bearing from the Charles B. Wheeler Downtown RWY 19 LOC, extending from the 4.2-mile radius to 4.4 miles north of the airport; and within 1 mile each side of the 013° bearing from the airport, extending from the 4.2-mile radius to 4.3 miles north of the airport; and within 1 mile each side of the 215° bearing from the Charles B. Wheeler Downtown RWY 03 LOC, extending from the 4.2-mile radius to 4.5 miles south of the airport; and within 1 mile each side of the 218° bearing from the airport, extending from the 4.2-mile radius to 5 miles south of the airport.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ACE MO E4 Kansas City Charles B. Wheeler Downtown Airport, MO [Removed]

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE MO E5 Kansas City, MO [Amended]

Kansas City International Airport, MO
(Lat. 39°17′51″ N, long. 94°42′50″ W)
Charles B. Wheeler Downtown Airport, MO
(Lat. 39°07′23″ N, long. 94°35′34″ W)
Charles B. Wheeler Downtown RWY 03 LOC
(Lat. 39°07′40″ N, long. 94°35′17″ W)
Sherman Army Airfield (AAF), KS
(Lat. 39°22′03″ N, long. 94°54′52″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of Kansas City International Airport; and within a 6.7-mile radius of Charles B. Wheeler Downtown Airport; and within 2 miles each side of the 215° bearing from the Charles B. Wheeler Downtown RWY 03 LOC, extending from the 6.7-mile radius to 8.7 miles south of the Charles B. Wheeler Downtown Airport; and within a 6.5-mile radius of the Sherman AAF.

Issued in Fort Worth, Texas, on January 24, 2018.

Christopher L. Southerland,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2018–01795 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9378; Airspace Docket No. 17–ASW–13]

Proposed Establishment of Class D and E Airspace, and Amendment of Class E Airspace; Austin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace, Class E surface airspace, and amend Class E airspace extending upward from 700 feet above the surface at Austin Executive Airport, Austin, TX. The FAA conducted an airspace review and determined that airspace redesign is necessary due to the establishment of an air traffic control tower at the airport. This action would enhance the safety and management of instrument flight rules (IFR) operation at the airport. An editorial change also would be made removing the city associated with the airport name in the airspace designation.

DATES: Comments must be received on or before March 19, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–9378; Airspace Docket No. 17–ASW–13, 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 *http://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: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 amends Class D and E airspace at Austin Executive Airport in support of 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. Commenters 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–2017–9378/Airspace Docket No. 17–ASW–13.'' 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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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 D airspace at Austin Executive Airport, Austin, TX, within a 4.1-mile radius of the airport;

Establishing Class E surface airspace within a 4.1-mile radius of Austin Executive Airport, Austin, TX;

Amending Class E airspace extending upward from 700 feet above the surface to within a 6.3-mile radius (decreased from a 6.5-mile radius) of Austin Executive Airport, and within 2 miles each side of the 131° bearing (from the 132° bearing) from the airport extending from the 6.3-mile radius to 11.3 miles (increased from a 10.4-miles) southeast of the airport, and within 2 miles each side of the 311° bearing from the airport

extending from 6.3-mile radius to 10.5 miles (decreased from 11.2 miles) northwest of the airport. Also, due to a recent change to FAA Order 7400.2L, Procedures for Handling Airspace Matters, dated October 12, 2017, the name of the city associated with the airport is removed from the airspace designation.

Controlled airspace is necessary for the safety and management of Standard Instrument Approach Procedures (SIAPs) for IFR operations at this airport.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and 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.

Lists 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 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 5000 Class D Airspace.

* * * * *

ASW TX D Austin, TX [New]

Austin Executive Airport, TX
(Lat. 30°23′51″ N, long. 97°33′59″ W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.1-mile radius of Austin Executive Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

ASW TX E2 Austin, TX [New]

Austin Executive Airport, TX
(Lat. 30°23′51″ N, long. 97°33′59″ W)

That airspace within a 4.1-mile radius of Austin Executive Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Austin, TX [Amended]

Point of Origin
(Lat. 30°17′55″ N, long. 97°42′06″ W)
Lakeway Airpark, TX
(Lat. 30°21′27″ N, long. 97°59′40″ W)
Austin Executive Airport, TX
(Lat. 30°23′51″ N, long. 97°33′59″ W)
Lago Vista-Rusty Allen Airport, TX
(30°29′55″ N, long. 97°58′59″ W)

That airspace extending upward from 700 feet above the surface within a 14-mile radius of the Point of Origin, and within a 6.4-mile radius of Lakeway Airpark, and within a 6.4-mile radius of Lago Vista-Rusty Allen Airport, and within a 6.3-mile radius of Austin Executive Airport, and within 2 miles each side of the 131° bearing from Austin Executive Airport extending from the 6.3-mile radius to 11.3 miles southeast of the airport, and within 2 miles each side of the 311° bearing from Austin Executive Airport extending from the 6.3-mile radius to 10.5 miles northwest of the airport.

Issued in Fort Worth, Texas, on January 23, 2018.

Christopher L. Southerland,
Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2018–01796 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–0AR–2017–0753; FRL–9973–45–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Revisions to the Transportation Conformity Consultation Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by Colorado on May 16, 2017. The May 16, 2017 SIP revision addresses minor changes and typographical corrections to the transportation conformity requirements of Colorado's Regulation Number 10 ''Criteria for Analysis of Conformity.'' These actions are being taken under section 110 of the Clean Air Act.

DATES: Written comments must be received on or before March 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2017–0753 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to the public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web,

cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6479, or *russ.tim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

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

a. *Submitting CBI.* Do not submit CBI to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

b. *Tips for Preparing Your Comments.* When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. Background

The EPA is proposing approval of minor revisions to Colorado's Regulation Number 10 which is entitled ''Criteria for Analysis of Conformity'' (hereafter, ''Regulation No. 10''). We note the most recent prior SIP revisions to Regulation No. 10, that we approved, occurred on March 4, 2014 (79 FR 12079).

The purpose of Regulation No. 10 is to address the transportation conformity SIP requirements of section 176(c) of the Clean Air Act (CAA) and 40 CFR 51.390(b). In addition, Regulation No. 10 also addresses the following transportation conformity SIP element requirements; 40 CFR 93.105 which formalizes the consultation procedures; 40 CFR 93.122(a)(4)(ii) which addresses written commitments to control measures that are not included in a Metropolitan Planning Organization's (MPOs) transportation plan and transportation improvement program that must be obtained prior to a conformity determination; and 40 CFR 93.125(c) which addresses written commitments to mitigation measures that must be obtained prior to a project-level conformity determination.[1]

III. What was the State's process to submit a SIP revision to the EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to the EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state.

For the May 16, 2017 revisions to Regulation No. 10, the Colorado Air Quality Control Commission (AQCC) held a public hearing for those revisions on February 18, 2016. There were no public comments. The AQCC adopted the revisions to Regulation No. 10 directly after the hearing. This SIP revision became state effective on March 30, 2016 and was submitted by Dr. Larry Wolk, Executive Director of the Colorado Department of Public Health and Environment (CDPHE), and on behalf of the Governor, to the EPA on May 16, 2017.

We have evaluated the State's May 16, 2017 submittal for Regulation No. 10 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the State's May 16, 2017 submittal was deemed complete by the EPA on November 25, 2017.

IV. EPA's Evaluation of the State's May 16, 2017 Submittal

The EPA has reviewed the revisions to Regulation No. 10 that were submitted by the State on May 16, 2017 and we are proposing to approve these revisions. We reviewed the State's submittal to assure consistency with the transportation conformity requirements in 40 CFR 51.390(b), that establish the requirements for conformity consultation SIPs and to the transportation conformity requirements in 40 CFR 93.105, 93.122(a)(4)(ii) and 93.125(c).[2 3] We also consulted our document ''Guidance for Developing Transportation Conformity State Implementation Plans (SIPs),'' EPA–420–B–09–001, dated January 2009.[4]

Our review regarding the revisions to Regulation No. 10 included the following:

(a) The Title to Regulation No. 10. The revisions to the title included typographic changes to the title such as capitalization, use of lower case letters to remove capitalization of particular words and inclusion of a sentence regarding the editor's notes at the end of the regulation. Except for the addition of the sentence regarding the editor's notes, we otherwise note that only typographic changes were performed and no words or terms were added or deleted.

(b) Section II. ''Definitions.'' The EPA has reviewed and finds acceptable the revisions and clarifications that the state made to the definition of ''*Routine Conformity Determination.*'' These revisions to Regulation No. 10 were designed to streamline the transportation conformity process by allowing the CDPHE to provide concurrence for a wider range of routine

[1] A conformity SIP includes a state's specific criteria and procedures for certain aspects of the transportation conformity process consistent with the federal conformity rule. A conformity SIP does not contain motor vehicle emissions budgets, emissions inventories, air quality demonstrations, or control measures. See EPA's *Guidance for Developing Transportation Conformity State Implementation Plans (SIPs)* for further background: *https://nepis.epa.gov/Exe/ZyPDF.cgi/P1002W5B.PDF?Dockey=P1002W5B.PDF.*

[2] ''40 CFR 93 Transportation Conformity Rule $PM_{2.5}$ and PM_{10} Amendments; Final Rule,'' March 24, 2010, 75 FR 14260.

[3] ''40 CFR 93 Transportation Conformity Rule Restructuring Amendments; Final Rule,'' March 14, 2012, 77 FR 14979.

[4] See: *http://www.epa.gov/otaq/stateresources/transconf/policy/420b09001.pdf*

transportation conformity determinations without the need for a public hearing before the AQCC. This change to the routine conformity determination definition will reduce the burden on the AQCC, the CDPHE and transportation MPOs while continuing to ensure that air quality transportation conformity requirements are met. In addition, we note that the changes also include the provision that notwithstanding this general definition, the CDPHE or the AQCC may, at its discretion, request that any transportation conformity determination be reviewed by the AQCC. The EPA notes that such a review may also include a public hearing before the AQCC.

(c) Typographical corrections were made to the following sections: Section II, definition of *Review Team;* Section III, subsections III.A.2, III.A.3, III.B.1.a, III.C.1.b.(2), III.C.1.g and III.F.3.

(d) Section VI. ''Statements of Basis, Specific Statutory Authority, and Purpose.'' The EPA notes that the changes to this section VI in the State's regulation merely provide information for the State regarding the SIP revision and are not necessary for an approvable Transportation Conformity Consultation SIP element whose purpose is to meet the requirements of CAA section 176(c)(4)(E) and 40 CFR 51.390. Therefore, the EPA is not taking any action on this section.

V. Summary of the EPA's Proposed Action

For the reasons discussed in section IV above, and under CAA section 110(k)(3), the EPA is proposing to approve the Regulation No. 10 revisions to Section II to the definition of ''*Routine Conformity Determination.*'' In addition, we are proposing approval of the typographic corrections to the Regulation No. 10 title, to Section II and to the Section III subsections III.A.2, III.A.3, III.B.1.a, III.C.1.b.(2), III.C.1.g and III.F.3.

The EPA notes that revisions were also made to Colorado's Regulation No. 10, section VI ''Statements of Basis, Specific Statutory Authority, and Purpose''; however, the EPA is not taking any action on the revisions to this section. The revisions to section VI are only informational in nature for the State and do not require federal approval into the SIP.

VI. Consideration of Section 110(1) of the Clean Air Act

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and Reasonable Further Progress toward attainment of the National Ambient Air Quality Standards (NAAQS), or any other applicable requirement of the CAA. The EPA proposes to determine that the portions of Regulation No. 10 that we are acting on are consistent with the applicable requirements of the CAA. Furthermore, these portions do not relax any previously approved SIP provision; thus they do not otherwise interfere with attainment and maintenance of the NAAQS. In addition, section 110(l) of the CAA requires that each revision to an implementation plan submitted by a state shall be adopted by the state after reasonable notice and opportunity for public hearing. On February 18, 2016, the AQCC held a public hearing and the AQCC adopted the revisions to Regulation No. 10 directly after the hearing. This SIP revision became state effective on March 30, 2016. Therefore, the CAA section 110(l) requirements are satisfied.

VII. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the approval of portions of Regulation No. 10 as submitted by the State of Colorado and as discussed above in section IV of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, and Volatile Organic Compounds.

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

Dated: January 24, 2018.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2018–01853 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0851; FRL–9973–16–Region 6]

Approval and Promulgation of Implementation Plans; Louisiana; Interstate Transport Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is proposing to approve portions of the Louisiana State Implementation Plan (SIP) submittal and a technical supplement addressing the CAA requirement that SIPs address the potential for interstate transport of air pollution to significantly contribute to nonattainment or interfere with maintenance of the 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) in other states. EPA is proposing to determine that emissions from Louisiana sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 $PM_{2.5}$ NAAQS.

DATES: Written comments must be received on or before March 5, 2018.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R06–OAR–2015–0851, at *http://www.regulations.gov* or via email to *fuerst.sherry@epa.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

A. The $PM_{2.5}$ NAAQS and Interstate Transport of Air Pollution

Under section 109 of the CAA, we establish NAAQS to protect human health and public welfare. In 2012, we established a new annual NAAQS for $PM_{2.5}$ of 12 micrograms per cubic meter ($\mu g/m^3$), (78 FR 3085, January 15, 2013). 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 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 reviews how the first two sub-elements, contained in CAA section 110(a)(2)(D)(i)(I), were addressed in an infrastructure SIP submission from Louisiana for the 2012 $PM_{2.5}$ NAAQS. These sub-elements require that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity in one state that will ''contribute significantly to nonattainment'' or ''interfere with maintenance'' of the applicable air quality standard in any other state.

The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to $PM_{2.5}$ in several past regulatory actions. In 2011, we promulgated the Cross-State Air Pollution Rule (CSAPR, 76 FR 48208, August 8, 2011) in order to address the obligations of states—and of the EPA when states have not met their obligations—under CAA section 110(a)(2)(D)(i)(I) to prohibit air pollution contributing significantly to nonattainment in, or interfering with maintenance by, any other state with regard to several NAAQS, including the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.[1] In that rule, we considered states linked to downwind receptors if they were projected to contribute more than the threshold amount (1% of the standard) of $PM_{2.5}$ pollution for the 1997 and 2006 $PM_{2.5}$ NAAQS (76 FR 48208, 48239–43). The EPA has not established a threshold amount for the 2012 $PM_{2.5}$ NAAQS. In 2016 we provided an informational memorandum (the memo) about the steps states should follow as they develop and review SIPs that address this provision of the CAA for the 2012 $PM_{2.5}$ NAAQS.[2]

B. Louisiana SIP Submittal Pertaining to the 2012 $PM_{2.5}$ NAAQS and Interstate Transport of Air Pollution

On December 11, 2015, Louisiana submitted a SIP revision to address the requirements of CAA section 110(a)(1) and (2) including a section to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS. The submittal stated that the State had adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS stating, ''Air quality modeling evaluating interstate transport for the 2006 $PM_{2.5}$ supported the conclusion that Louisiana did not impact on either downwind nonattainment or maintenance receptors. The air quality modeling performed for the Transport Rule found that the impact was less than the 1 percent threshold (79 FR 4436, January 28, 2014). Currently Louisiana is in compliance with the new standard.'' On July 7, 2017, the State submitted a letter to EPA serving

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[1] Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48207 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and 40 CFR part 97).

[2] Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I) March 17, 2016 from Stephen D. Page.

as a technical supplement for the 2012 $PM_{2.5}$ NAAQS. The letter stated that ''(b)ecause more recent and improved air quality modeling data evaluated transport for the 2012 $PM_{2.5}$ NAAQS conducted by EPA for the Cross State Air Pollution Rule is now available and supports the conclusion that emissions in Louisiana do not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state, we submit it as basis for our conclusions in lieu of the previous technical information provided''.

We propose to approve the December 11, 2015 submittal and the July 7, 2017 technical supplement submittal that intended to demonstrate that the SIP met the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS.

II. The EPA's Evaluation

As stated above, Section 110(a)(2)(D)(i) requires SIPS to include adequate provisions prohibiting any source or other type of emissions activity in one state that will (I) contribute significantly to nonattainment, or interfere with maintenance of the NAAAQS in another state, and (II) interfering with measures required to prevent significant deterioration of air quality, or to protect visibility in another state. This action addresses only CAA section 110(a)(2)(D)(i)(I).

EPA issued an information memo on March 17, 2016, titled, ''Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' (the memo). We will be following the framework outlined in the memo.

The memo outlined the four step framework EPA has historically used to evaluate interstate transport under section 110(a)(2)(D)(i)(I), including the EPA's CSAPR.

(1) Identification of potential downwind nonattainment and maintenance receptors;

(2) Identification of upwind states contributing to downwind nonattainment and maintenance receptors;

(3) For states identified as contributing to downwind air quality problem, identification of upwind emissions reductions necessary to prevent upwind states from significantly contributing to nonattainment or interfering with maintenance of receptors, and;

(4) For states that are found to have emissions that significantly contribute to non-attainment or interfere with maintenance downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures.

Based on this approach, the potential receptors are outlined in Table 1 in the memo. Most of the potential receptors are in California, located in the San Joaquin Valley or South Coast nonattainment areas. However, there is also one potential receptor in Shoshone County, Idaho, and one potential receptor in Allegheny County, Pennsylvania.

The memo did note that because of data quality problems nonattainment and maintenance projections were not done for all or portions of Florida, Illinois, Idaho, Tennessee and Kentucky. After issuance of the memo, data quality problems were resolved for Idaho, Tennessee, Kentucky and portions of Florida, identifying no additional potential receptors, with those areas having design values (DV) below the 2012 $PM_{2.5}$ NAAQS and expected to maintain the NAAQS due to downward emission trends for NO_X and SO_2 (*www.epa.gov/air-trends/air-quality-design-values* and *www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data*). As of December, 2017, the areas that still have data quality issues preventing projections of nonattainment and maintenance receptors are all of Illinois and four counties in Florida. For this evaluation these areas will be considered potential receptors for the 2012 $PM_{2.5}$ NAAQS.

Therefore, for ''Step 1'' of this evaluation, the areas identified as ''potential downwind nonattainment and maintenance receptors'' are:

- Seventeen potential receptors in California, located in the San Joaquin Valley or South Coast nonattainment areas;
- Shoshone County, Idaho;
- Allegheny County, Pennsylvania;
- Miami-Dade, Gilchrist, Broward, and Alachua Counties in Florida; and,
- All of Illinois

As stated above, ''Step 2'' is the identification of states contributing to downwind nonattainment and maintenance receptors, such that further analysis is required to identify necessary upwind reductions. For this step, we will be specifically determining if Louisiana emissions contribute to downwind nonattainment and maintenance receptors.

Each of the potential receptors is discussed below, with a more in depth discussion provided in the Technical Support Document (TSD) for this notice. For additional information, links to the documents relied upon for this analysis can be found throughout the document, more information is available in the TSD and the documents can be found in the docket for this action.

California

As described in our TSD, our analysis shows that Louisiana's $PM_{2.5}$ emissions and/or $PM_{2.5}$ precursors do not significantly impact the California potential receptors identified in the memo. In our analysis we found specifically that the majority of the emissions impacting $PM_{2.5}$ levels in California are directly emitted $PM_{2.5}$ and/or $PM_{2.5}$ precursors from within the state, and that meteorological and topographic conditions serve as barriers to transport from Louisiana. We note that air quality designations are not relevant to our evaluation of interstate transport, however, the analysis developed for the 2012 annual $PM_{2.5}$ NAAQS designations process provides an in depth evaluation of factors critical in evaluating transport of $PM_{2.5}$ and $PM_{2.5}$ precursors, including evaluation of local emissions, wind speed and direction, topographical and meteorological conditions and seasonal variations recorded at the monitors, which all support the conclusion that Louisiana's $PM_{2.5}$ and $PM_{2.5}$ precursors do not significantly contribute to nonattainment or interfere with maintenance of the California potential receptors. Furthermore, Louisiana is more than 1,300 miles to the east and generally downwind of the California receptors.[3]

For these reasons, we propose to find that Louisiana does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for California.

Shoshone County, Idaho

As discussed in the TSD, our analysis shows that Louisiana's $PM_{2.5}$ emissions and/or $PM_{2.5}$ precursors do not significantly impact the Idaho potential receptor identified in the memo. In our analysis, we found specifically that the majority of the emissions impacting $PM_{2.5}$ levels, came during the winter time and could be attributed to residential wood combustion. We note that air quality designations are not relevant to our evaluation of interstate transport; however, the analysis developed for the 2012 annual $PM_{2.5}$ NAAQS designations process provide

[3] California: Imperial County, Los Angeles-South Coast Air Basin, Plumas County, San Joaquin Valley Area Designations for the 2012 Primary Annual $P_{M2.5}$ National Ambient Air Quality Standard Technical Support Document *https://www.regulations.gov/document?D=EPA-HQ-OAR-2012-0918-0330.*

an in depth evaluation of factors critical in evaluating transport of $PM_{2.5}$ and $PM_{2.5}$ precursors, including evaluation of local emissions, wind speed and direction, topographical and meteorological conditions and seasonal variations recorded at the monitor, which all support the conclusion that Louisiana $PM_{2.5}$ and $PM_{2.5}$ precursors do not significantly contribute to nonattainment nor interfere with maintenance of the Idaho potential receptor.[4] Furthermore, Louisiana is more than 1,100 miles to the southeast and downwind of this receptor.

For these reasons, we propose to find that Louisiana does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for Shoshone, Idaho.

Allegheny County, Pennsylvania

As discussed in the TSD, our analysis shows that Louisiana's $PM_{2.5}$ emissions and/or $PM_{2.5}$ precursors do not significantly impact the Allegheny County, Pennsylvania (Liberty monitor) potential receptor identified in the memo. In our analysis we found that there were strong local influences throughout Allegheny County and contributions from nearby states that contributed to its nonattainment for both the 1997 and 2006 $PM_{2.5}$ NAAQS. Contributors to the Liberty monitor in Allegheny County, Pennsylvania in recent years, have taken steps to improve air quality which will likely bring the monitor into compliance with the 2012 $PM_{2.5}$ annual NAAQS by the 2021 attainment date.

Another compelling fact is that in previous modeling, nonattainment in Allegheny County, Pennsylvania was linked to significant contributions from other states.[5] Louisiana was analyzed in this modeling, and Louisiana emissions was not linked to Allegheny County.

For these reasons, we propose to find that Louisiana does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for Allegany County, Pennsylvania.

Miami/Dade, Gilchrist, Broward, Alachua Counties, Florida

As discussed in more detail in the TSD, Florida did not have any potential nonattainment or maintenance receptors identified for the 1997 or 2006 $PM_{2.5}$ NAAQS. At this time, it is anticipated that this trend will continue under the 2012 standard, however, as there are ambient monitoring data gaps in the 2009–2013 data that could have been used to identify potential $PM_{2.5}$ nonattainment and maintenance receptors for Miami/Dade, Gilchrist, Broward and Alachua counties in Florida, the modeling analysis of potential receptors was not complete for these counties. In addition, the most recent ambient data (2014–2016) is still incomplete and therefore these areas are currently considered unclassifiable, so we are evaluating potential of linkages between Florida and Louisiana.

Both Louisiana and Florida were analyzed in the CSAPR modeling and there were no linkages shown at any monitor between these two state. Additionally, Louisiana is located 650 miles from Gilchrist County (the most western of the unclassifiable Florida counties) and is unlikely to impact air quality in Florida.

For these reasons, we propose to find that Louisiana does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for any of the four Florida counties.

Illinois

As with the counties in Florida, due to ambient monitoring data gaps in the 2009–2013 data that should have been used to identify potential $PM_{2.5}$ nonattainment and maintenance receptors in Illinois and the modeling analysis of potential receptors could not be completed for the state, therefore entire state is considered unclassifiable. Unlike Florida, Illinois did have a nonattainment receptor identified through the CSAPR modeling analysis for the 1997 $PM_{2.5}$ NAAQS. The receptor was in Madison, Illinois, located near St. Louis, Missouri.

As stated above, Louisiana was included in the CSAPR modeling analysis for the 1997 $PM_{2.5}$ NAAQS. The modeling did not show a linkage for nonattainment or maintenance between Louisiana and Illinois. Recent DV for the monitors in Madison, Illinois have shown downward trends. There are three active monitors in Madison. The DVs for the monitors are shown in Table 1 below.

TABLE 1—ANNUAL STANDARD DESIGN VALUES (μg/m³) FOR MADISON, ILLINOIS MONITORS

Monitor No.	2012–2014	2013–2015	2014–2016
171191007	12.9	11.6	10.8
171192009	10.4	9.7	9.4
171193007	12.5	10.8	10.1

For these reasons, we propose that Louisiana will not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in Illinois.

Since we determined that Louisiana's SIP includes provisions prohibiting any source or other type of emissions activity from contributing significantly to nonattainment in, or interfering with maintenance of the NAAQS, in another state, steps 3 and 4 of this evaluation are not necessary.

In conclusion, based on our review of the potential receptors presented in the March 17, 2016 informational memo, an evaluation identifying likely emission sources affecting these potential receptors, and the 2014 base case modeling in CSAPR final rule, we propose to determine that emissions from Louisiana sources will not contribute significantly to nonattainment in, nor interfere with maintenance by, any other state with regard to the 2012 annual $PM_{2.5}$ NAAQS.

III. Proposed Action

EPA is proposing to approve the December 11, 2015 SIP revision as supplemented on July 7, 2015 as part of the SIP for Louisiana pursuant to the requirements of CAA section 110(a)(2)(D)(i)I as applicable to the 2012 $PM_{2.5}$ NAAQS. For the reasons discussed above and in the TSD, we are proposing to approve the portion of the Louisiana SIP submittal as supplemented, pertaining to interstate transport of air pollution demonstrating emissions from Louisiana will not

[4] Idaho: West Silver Valley Nonattainment Area—2012 Primary Annual $PM_{2.5}$ National Ambient Air Quality Standard Technical Support Document. Prepared by EPA Region 10.

[5] Air Quality Modeling for 2011 Cross-State Air Pollution Rule (CSAPR) (76 FR 48207, August 8, 2011).

significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

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

Dated: January 24, 2018.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018–01955 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2017–0355; FRL–9973–28–OAR]

RIN 2060–AT55

Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of three public listening sessions and that the public comment period will be reopened.

SUMMARY: On October 16, 2017, the Environmental Protection Agency (EPA) published a proposal to announce its intention to repeal the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, commonly referred to as the Clean Power Plan, as promulgated on October 23, 2015. The proposal also requested public comment on the proposed rule. The EPA held public hearings on November 28 and 29, 2017, in Charleston, West Virginia, and extended the public comment period until January 16, 2018. In response to numerous requests for additional opportunities for the public to provide oral testimony on the proposed rule in more than one location, the EPA is announcing that three listening sessions will be held. In addition, the EPA will reopen the public comment period until April 26, 2018.

DATES: The first listening session for the proposed rule published October 16, 2017, at 82 FR 48035, will be held Wednesday, February 21, 2018, in Kansas City, Missouri; the second session will be held Wednesday, February 28, 2018, in San Francisco, California; and the third session will be held Tuesday, March 27, 2018, in Gillette, Wyoming. The EPA is reopening the public comment period until April 26, 2018.

ADDRESSES: The first listening session will be held Wednesday, February 21, 2018, at the U.S. Department of Agriculture Beacon Complex, 6501 Beacon Drive, Kansas City, Missouri 64133, from 10 a.m. until 8 p.m., Central Standard Time (CST). Because this listening session is being held at a U.S. government facility, individuals planning to attend should be prepared to show a current, valid state- or federal-approved picture identification to the security staff in order to gain access to the meeting room. An expired form of identification will not be permitted. Please note that the Real ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by a noncompliant state, you must present an additional form of identification to enter the federal building in Kansas City where the listening session will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses, and military identification cards.

Additional information on the Real ID Act is available at *https://www.dhs.gov/real-id-frequently-asked-questions.* In addition, you will need to obtain a visitor pass for any personal belongings you bring with you. No backpacks will be allowed into the building, but purses will be allowed.

Also, vehicles should only enter the West ''C'' Gate, identified with orange traffic cones and all vehicles must park in a designated area. Demonstrations will not be allowed on federal property for security reasons. The second listening session will be held Wednesday, February 28, 2018, at the San Francisco Main Library, Koret Auditorium, 30 Grove Street entrance, San Francisco, California 94102, from 8:30 a.m. until 7:30 p.m., Pacific Standard Time (PST). And the third listening session will be held Tuesday, March 27, 2018, at the Gillette College Technical Education Center, 3251 South 4–J Road, Gillette, Wyoming 82718, from 9 a.m. until 8 p.m., Mountain Daylight Time (MDT). The EPA will make every effort to accommodate all speakers.

The EPA's website for the rulemaking, which includes the proposal and information about the listening sessions, can be found at: *https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan-0.* Written comments on the proposed rule may be submitted to the EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the proposal (82 FR 48035) for the addresses and detailed instructions.

How to Register: If you would like to present oral testimony at the listening sessions, registration will begin on February 1, 2018. The last day to register to present oral testimony will be February 14, 2018, for Kansas City; February 21, 2018, for San Francisco; and March 20, 2018, for Gillette. To register to speak, please use the online registration form available at: *https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan-0.* To register to speak, we request the following information: The time you wish to speak, name, affiliation, email address, and telephone number. If you register to speak online, you do not need to call. If you require reasonable accommodations, such as the service of a translator, please let us know at the time of registration. Please note that updates made to any aspect of the sessions will be posted online at: *https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan-0.* While the EPA expects the listening sessions to go forward as set forth above, it asks that you monitor its website or contact the appropriate person listed below to determine if there are any updates to the information on the sessions. The EPA does not intend to publish a notice in the **Federal Register** announcing any such updates.

FOR FURTHER INFORMATION CONTACT: If you are not able to register online or if you have key questions, contact Amy Bhesania at (913) 551–7147 or at *bhesania.amy@epa.gov* for the session in Kansas City; Trina Martynowicz at (415) 947–8715 or at *R9CPP@epa.gov* for the session in San Francisco; or Laura J. Farris at (303) 312–6388 or at *farris.laura@epa.gov* for the session in Gillette.

Questions concerning the proposed rule that was published in the **Federal Register** on October 16, 2017, should be addressed to Mr. Nick Swanson, Natural Resources Group, Sector Policies and Programs Division (E143–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4080; email address: *swanson.nicholas@epa.gov.*

SUPPLEMENTARY INFORMATION: The proposal for which the EPA is holding the listening sessions was published in the **Federal Register** on October 16, 2017, and is available at: *https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan-0* and also in the docket identified below. The listening sessions will provide interested parties the opportunity to present oral comments regarding the EPA's proposed repeal, including data, views, or arguments concerning the proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the public comment period will be considered with the same weight as any oral comments and supporting information presented at the listening sessions. The EPA will keep the public comment period open until April 26, 2018.

For planning purposes, each speaker should anticipate speaking for no more than 5 minutes, although we might need to shorten that time if there is a large turnout. The EPA encourages commenters to submit to the docket a copy of their testimony electronically (via email or CD) or in hard copy form.

The listening session schedules, including lists of speakers, will be posted on the EPA's website at: *https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan-0.* Verbatim transcripts of the sessions and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the sessions; however, please plan for the sessions to run either ahead of schedule or behind schedule.

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

The EPA has established a docket for the proposed rule, ''Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units,'' under Docket ID No. EPA–HQ–OAR–2017–0355, available at: *http://www.regulations.gov.*

Dated: January 17, 2018.

E. Scott Pruitt,

Administrator.

[FR Doc. 2018–01321 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2017–0570; FRL–9973–29–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Control of Emissions From Existing Commercial and Industrial Solid Waste Incinerator Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to notify the public that it has received a negative declaration for commercial and industrial solid waste incineration (CISWI) units within the State of Maryland. This negative declaration certifies that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist within the jurisdictional boundaries of the State of Maryland. EPA is accepting the negative declaration in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before March 5, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0570 at *http://www.regulations.gov,* or via email to *duke.gerallyn@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mike Gordon, (215) 814–2039, or by email at *gordon.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the CAA require submittal of state plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established by EPA under section 111(b) for new sources of the same source category and the EPA has established emission guidelines for such existing sources. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutant. Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants from designated facilities under sections 111(d) and 129 of the CAA. Also, Subpart A of 40 CFR part 62 provides the procedural framework for the submission of these plans.

If a state fails to submit a satisfactory plan, the CAA provides the EPA the authority to prescribe a plan for regulating the designated pollutants at the designated facilities. The EPA prescribed plan, also known as a federal plan, is often delegated to states with designated facilities but no EPA approved state-specific plan. If no such designated facilities exist within a state's jurisdiction, a state may submit to the EPA a letter of certification to that effect (referred to as a negative declaration) in lieu of a state plan to satisfy the state's obligation. 40 CFR 60.23(b) and 62.06. A negative declaration exempts the state from the requirement to submit a CAA section 111(d)/section 129 plan for that designated pollutant and source category. 40 CFR 60.23(b).

II. Commercial and Industrial Solid Waste Incinerators

On December 1, 2000 (60 FR 75338), the EPA promulgated new source performance standards for new CISWI units, 40 CFR part 60, subpart CCCC, and emission guidelines for existing CISWI units, 40 CFR part 60, subpart DDDD. After a series of legal challenges, amendments, and reconsiderations, the EPA promulgated the Reconsideration and Final Amendments for CISWI units on February 7, 2013 (78 FR 9112) (providing final standards for new and existing sources). A CISWI unit is any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding six months, any solid waste, as that term is defined in 40 CFR part 241, Solid Wastes Used as Fuels or Ingredients in Combustion Units. 40 CFR 60.2875. A state plan must address all existing CISWI units that commenced construction on or before June 4, 2010, or for which modification or reconstruction was commenced on or before August 7, 2013, with limited exceptions as provided in paragraph 40 CFR 60.2555. 40 CFR 60.2550.

As discussed above, however, if there are no designated facilities in the state, the state may submit a negative declaration in lieu of a state plan. The EPA will provide public notice of receipt of a state's negative declaration with respect to CISWI. 40 CFR 60.2530. If any subsequently identified existing CISWI unit is found in a state that had submitted a negative declaration, the Federal plan implementing the emission guidelines for subpart DDDD would automatically apply to that CISWI unit until a state plan is approved. 40 CFR 60.2530.

III. State Submittals and EPA Analysis

The State of Maryland, through the MDE, has determined that there are no CISWI units subject to CAA 111(d)/129 requirements in its respective air pollution control jurisdiction. Accordingly, the MDE submitted a negative declaration letter to EPA certifying this fact on January 20, 2017. The negative declaration letter is available in the docket for this rulemaking and available online at *www.regulations.gov.*

IV. Proposed Action

EPA's review of this material indicates that MDE has fulfilled its obligation under CAA Sections 129 and 111(d) for submittal of a negative declaration. EPA is proposing to approve the Maryland negative declaration for CISWI units, which was submitted on January 20, 2017. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

In reviewing section 111(d)/129 plan 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 proposed action:

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

In addition, this proposed rule for existing CISWI units within the State of Maryland does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the section 111(d)/129 plan is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Commercial and industrial solid waste incineration units, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 11, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2018–02059 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2017–0087; FXMB12610700000–189–FF07M01000]

RIN 1018–BC70

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2018 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is proposing migratory bird subsistence harvest regulations in Alaska for the 2018 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking proposes region-specific regulations that would go into effect on April 2, 2018.

DATES: We will accept comments received or postmarked on or before March 5, 2018. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by February 16, 2018.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R7–MB–2017–0087.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R7–MB–2017–0087; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Place, MS: BPHC; Falls Church, VA 22041–3803.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comment Procedures section, below, for more detailed information).

FOR FURTHER INFORMATION CONTACT: Donna Dewhurst, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786–3499.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

To ensure that any action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information, such as your address, telephone number, or email address—will be posted on the website. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-carry a hardcopy comment directly to us that includes personal 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. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy comments on *http://www.regulations.gov.*

In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection in two ways:

(1) You can view them on *http://www.regulations.gov.* Search for FWS–R7–MB–2017–0087, which is the docket number for this rulemaking.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person at the Division of Migratory Bird Management, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1714.

Public Availability of Comments

As stated above in more detail, before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Length of Comment Period

Implementation of the Service's 2013 supplemental environmental impact statement on the hunting of migratory birds has resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. That is, moving the annual Service Regulations Committee meeting from July to October has greatly shortened our period to publish the proposed regulations and solicit comments. We are further bounded by a subsistence harvest start date of April 2, 2018, making a 60-day comment period problematic and increasing the risk of not having regulations established before the start of the subsistence season. Thus, we have established a 30-day comment period for this proposed rule (see **DATES**, above), and we will be conducting tribal consultations within Alaska simultaneously. We believe a 30-day comment period gives the public adequate time to provide meaningful comments. In addition, the proposed regulations in this document for the 2018 season are the same as the final regulations we published on April 4, 2017 (82 FR 16298), for the 2017 season.

Why is this rulemaking necessary?

This rulemaking is necessary because, by law, the migratory bird harvest season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. This rule proposes regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer of 2018. This proposed rule also sets forth a list of migratory bird season openings and closures in Alaska by region.

How do I find the history of these regulations?

Background information, including past events leading to this rulemaking, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history, were originally addressed in the **Federal Register** on August 16, 2002 (67 FR 53511) and most recently on April 4, 2017 (82 FR 16298).

Recent **Federal Register** documents and all final rules setting forth the annual harvest regulations are available at *http://www.fws.gov/alaska/ambcc/regulations.htm* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

What is the process for issuing regulations for the subsistence harvest of migratory birds in Alaska?

The U.S. Fish and Wildlife Service is proposing migratory bird subsistence-harvest regulations in Alaska for the 2018 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

The Alaska Migratory Bird Co-management Council (Co-management Council) held meetings on April 5–6, 2017, to develop recommendations for changes that would take effect during the 2018 harvest season. The Co-management Council recommended no changes for the 2018 regulations.

Who is eligible to hunt under these regulations?

Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and in areas north and west of the Alaska Range (50 CFR 92.5). These geographical restrictions opened the initial migratory bird subsistence harvest to about 13 percent of Alaska residents. High-populated, roaded areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska were excluded from eligible subsistence harvest areas.

In response to petitions requesting inclusion in the harvest in 2004, we added 13 additional communities consistent with the criteria set forth at 50 CFR 92.5(c). These communities were Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham, Nanwalek, Tyonek, and Hoonah, with a combined population of 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only in response to petitions requesting inclusion. These southeastern communities were Craig, Hydaburg, and Yakutat, with a combined population of 2,459, according to the latest census information at that time.

In 2007, we enacted the Alaska Department of Fish and Game's request to expand the Fairbanks North Star Borough excluded area to include the Central Interior area. This action excluded the following communities from participation in this harvest: Big Delta/Fort Greely, Healy, McKinley Park/Village, and Ferry, with a combined population of 2,812.

In 2012, we received a request from the Native Village of Eyak to include Cordova, Alaska, for a limited season that would legalize the traditional gathering of gull eggs and the hunting of waterfowl during spring. This request resulted in a new, limited harvest of spring waterfowl and gull eggs starting in 2014.

Amendments to Subpart C

Under subpart C, General Regulations Governing Subsistence Harvest, we are amending § 92.22, the list of birds open to subsistence harvest, by adding emperor goose (*Chen canagica*) and by amending cackling goose to allow egg gathering. These changes were originally made in the 2017 regulations (82 FR 16298; April 4, 2017), but were mistakenly set to expire August 31, 2017. We intended these changes to subpart C to be permanent; therefore, we are setting them forth again in this proposed rule with the intent to make them permanent when we publish a final rule for this action.

How would the service ensure that the subsistence migratory bird harvest complies with the Migratory Bird Treaty Act, and would not threaten the conservation of endangered and threatened species?

We have monitored subsistence harvest for the past 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim Delta. In recent years, more intensive surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered from regions still reporting some subsistence harvest of listed or candidate species.

Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this regulation would provide for the preservation and maintenance of migratory bird stocks as required by the Migratory Bird Treaty Act (Act; 16 U.S.C. 703 *et seq.*). The Act's 16 U.S.C. 712(1) provision states that the Service, ''is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.'' Communication and coordination between the Service, the Co-management Council, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks. In addition, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's consistency with the preservation and maintenance of stocks of migratory birds.

As for the ensuring the conservation of Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), listed species, spectacled eiders *(Somateria fischeri)* and the Alaska-breeding population of Steller's eiders *(Polysticta stelleri)* are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to hunting, although harvest surveys and Service documentation indicate both species are taken in several regions of Alaska. We have determined that this proposed rule would comply with the ESA (see Endangered Species Act Consideration discussion, below).

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect threatened species, (2) measures to address documented threats are implemented, and (3) the subsistence community and other conservation partners commit to working together. With these dual

objectives in mind, the Service, working with North Slope partners, developed measures in 2009 to further reduce the potential for shooting mortality or injury of closed species. These conservation measures included: (1) Increased waterfowl hunter outreach and community awareness through partnering with the North Slope Migratory Bird Task Force; and (2) continued enforcement of the migratory bird regulations that are protective of listed eiders.

This proposed rule continues to focus on the North Slope from Utqiagvik (formerly known as Barrow) to Point Hope because Steller's eiders from the listed Alaska breeding population are known to breed and migrate there, and harvest survey data and direct observations indicate take during subsistence harvest has occurred there. These regulations are designed to address several ongoing eider-management needs by clarifying for subsistence users that (1) Service law enforcement personnel have authority to verify species of birds possessed by hunters, and (2) it is illegal to possess any species of bird closed to harvest. This proposed rule also describes how the Service's existing authority of emergency closure would be implemented, if necessary, to protect Steller's eiders. We are always willing to discuss regulations with our partners on the North Slope to ensure protection of closed species while providing subsistence hunters an opportunity to maintain the culture and traditional migratory bird harvest of the community. These regulations pertaining to bag checks and possession of illegal birds are deemed necessary to monitor take of closed eider species during the subsistence hunt.

In collaboration with North Slope partners, a number of conservation efforts have been implemented to raise awareness and educate hunters in and around Utqiagvik on Steller's eider conservation via the local bird outreach festival, meetings, radio shows, signs, school visits, and one-on-one contacts. Limited intermittent monitoring on the North Slope, focused primarily at Utqiagvik, found no evidence that listed eiders were shot in 2009 through 2012; one Steller's eider and one spectacled eider were found shot during the summer of 2013; one Steller's eider was found shot in 2014; and no listed eiders were found shot in 2015 through 2017. Elsewhere in Alaska, one spectacled eider that appeared to have been shot was found dead on the Yukon-Kuskokwim Delta in 2015. The Service acknowledges progress made with the other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. To reduce the threat of shooting mortality of threatened eiders, we continue to work with North Slope partners to conduct education and outreach. In addition, the emergency-closure authority provides another level of assurance if an unexpected number of Steller's eiders are killed by shooting (50 CFR 92.21 and 50 CFR 92.32).

The longstanding general emergency-closure provision at 50 CFR 92.21 specifies that the harvest may be closed or temporarily suspended upon finding that a continuation of the regulation allowing the harvest would pose an imminent threat to the conservation of any migratory bird population. With regard to Steller's eiders, the regulations at 50 CFR 92.32, carried over from the past 7 years, clarify that we would take action under 50 CFR 92.21 as is necessary to prevent further take of Steller's eiders, and that action could include temporary or long-term closures of the harvest in all or a portion of the geographic area open to harvest. When and if mortality of threatened eiders is documented, we would evaluate each mortality event by criteria such as cause, quantity, sex, age, location, and date. We would consult with the Co-management Council when we are considering an emergency closure. If we determine that an emergency closure is necessary, we would design it to minimize its impact on the subsistence harvest.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to ''review other programs administered by him (or her) and utilize such programs in furtherance of the purposes of the Act'' and to ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *'' Prior to issuance of annual spring and summer subsistence regulations, we would consult under section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), to ensure that the 2018 subsistence harvest is not likely to jeopardize the continued existence of any species designated as endangered or threatened, or modify or destroy its critical habitats, and that the regulations are consistent with conservation programs for those species.

Consultation under section 7 of the ESA for the annual subsistence take regulations may cause us to change these regulations. Our biological opinion resulting from the section 7 consultation is a public document available from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.''

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this proposed rule would establish annual harvest limits related to routine hunting or fishing.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this proposed rule is not significant.

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

this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Department of the Interior certifies that, if adopted, this proposed rule would not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This proposed rule would legalize a pre-existing subsistence activity, and the resources harvested would be consumed.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

(a) Would not have an annual effect on the economy of $100 million or more. It legalizes and regulates a traditional subsistence activity. It would not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that would be regulated under this rule are migratory birds. This proposed rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this proposed rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this proposed rule would lead to a disproportionate distribution of benefits.

(b) Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This proposed rule does not deal with traded commodities and, therefore, would not have an impact on prices for consumers.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This proposed rule deals with the harvesting of wildlife for personal consumption. It would not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this proposed rule would not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Co-management Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The Alaska Department of Fish and Game also incurs expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the Alaska Department of Fish and Game to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this proposed rule would not have significant takings implications. This proposed rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this proposed rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these proposed regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

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

Government-to-Government Relations With Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), ''Consultation and Coordination with Indian Tribal Governments,'' and Department of Interior policy on Consultation with Indian Tribes (December 1, 2011), we will send letters via electronic mail to all 229 Alaska Federally recognized Indian tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also send letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the 2018 migratory bird subsistence harvest regulations.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: Seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the Statewide body.

Paperwork Reduction Act of 1995 (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved our collection of information associated with:

- Voluntary annual household surveys that we use to determine levels of subsistence take (OMB Control Number 1018–0124, expires October 31, 2019).
- Permits associated with subsistence hunting (OMB Control Number 1018–0075, expires June 30, 2019).
- Emperor Goose Spring Subsistence Harvest Survey (to include number of geese harvested, age, sex, and mass of birds harvested associated) (OMB Control Number 1090–0011, expires August 31, 2018).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The annual regulations and options are considered in an October 2017 environmental assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2018 Spring/Summer Harvest.'' Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *http://www.regulations.gov*.

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this proposed rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, we propose to amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart C—General Regulations Governing Subsistence Harvest

■ 2. Amend § 92.22 by:
■ a. Redesignating paragraph (a)(3) as paragraph (a)(4);
■ b. Adding a new paragraph (a)(3); and
■ c. Revising paragraph (a)(6).

The addition and revision read as follows:

§ 92.22 Subsistence migratory bird species.

* * * * *

(a) * * *

(3) Emperor goose (*Chen canagica*).

* * * * *

(6) Canada goose, subspecies cackling goose.

* * * * *

Subpart D—Annual Regulations Governing Subsistence Harvest

■ 3. Amend subpart D by adding § 92.31 to read as follows:

§ 92.31 Region-specific regulations.

The 2018 season dates for the eligible subsistence-harvest areas are as follows:

(a) *Aleutian/Pribilof Islands Region.* (1) Northern Unit (Pribilof Islands):

(i) *Season:* April 2–June 30.

(ii) *Closure:* July 1–August 31.

(2) Central Unit (Aleutian Region's eastern boundary on the Alaska Peninsula westward to and including Unalaska Island):

(i) *Season:* April 2–June 15 and July 16–August 31.

(ii) *Closure:* June 16–July 15.

(iii) *Special Black Brant Season Closure:* August 16–August 31, only in Izembek and Moffet lagoons.

(iv) *Special Tundra Swan Closure:* All hunting and egg gathering closed in Game Management Units 9(D) and 10.

(3) Western Unit (Umnak Island west to and including Attu Island):

(i) *Season:* April 2–July 15 and August 16–August 31.

(ii) *Closure:* July 16–August 15.

(b) *Yukon/Kuskokwim Delta Region.* (1) Season: April 2–August 31.

(2) *Closure:* 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(3) *Special Black Brant and Cackling Canada Goose Season Hunting Closure:* From the period when egg laying begins until young birds are fledged. Closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(c) *Bristol Bay Region.* (1) *Season:* April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.

(2) *Closure:* June 15–July 15 (general season); July 16–August 31 (seabird egg gathering).

(d) *Bering Strait/Norton Sound Region.* (1) Stebbins/St. Michael Area (Point Romanof to Canal Point):

(i) *Season:* April 15–June 14 and July 16–August 31.

(ii) *Closure:* June 15–July 15.

(2) Remainder of the region:

(i) *Season:* April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.

(ii) *Closure:* June 15–July 15 for waterfowl; July 20–August 20 for all other birds.

(e) *Kodiak Archipelago Region,* except for the Kodiak Island roaded area, which is closed to the harvesting of migratory birds and their eggs. The closed area consists of all lands and waters (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

(1) *Season:* April 2–June 30 and July 31–August 31 for seabirds; April 2–June 20 and July 22–August 31 for all other birds.

(2) *Closure:* July 1–July 30 for seabirds; June 21–July 21 for all other birds.

(f) *Northwest Arctic Region.* (1) *Season:* April 2–June 14 and July 16–August 31 (hunting in general); waterfowl egg gathering April 2–June 14 only; seabird egg gathering May 20–July 12 only; hunting molting/non-nesting waterfowl July 1–July 15 only.

(2) *Closure:* June 15–July 15, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) *North Slope Region.* (1) Southern Unit (Southwestern North Slope regional boundary east to Peard Bay, everything west of the longitude line 158°30′ W and south of the latitude line 70°45′ N to the west bank of the Ikpikpuk River, and everything south of the latitude line 69°45′ N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) *Season:* April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) *Closure:* June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(iii) *Special Black Brant Hunting Opening:* From June 20–July 5. The open area consists of the coastline, from mean high water line outward to include open water, from Nokotlek Point east to longitude line 158°30′ W. This includes Peard Bay, Kugrua Bay, and Wainwright Inlet, but not the Kuk and Kugrua river drainages.

(2) Northern Unit (At Peard Bay, everything east of the longitude line 158°30′ W and north of the latitude line 70°45′ N to west bank of the Ikpikpuk River, and everything north of the latitude line 69°45′ N between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) *Season:* April 2–June 6 and July 7–August 31 for king and common eiders; April 2–June 15 and July 16–August 31 for all other birds.

(ii) *Closure:* June 7–July 6 for king and common eiders; June 16–July 15 for all other birds.

(3) Eastern Unit (East of eastern bank of the Sagavanirktok River):

(i) *Season:* April 2–June 19 and July 20–August 31.

(ii) *Closure:* June 20–July 19.

(4) *All Units:* Yellow-billed loons. Annually, up to 20 yellow-billed loons total for the region inadvertently entangled in subsistence fishing nets in the North Slope Region may be kept for subsistence use.

(5) North Coastal Zone (Cape Thompson north to Point Hope and east along the Arctic Ocean coastline around Point Barrow to Ross Point, including Iko Bay, and 5 miles inland).

(i) No person may at any time, by any means, or in any manner, possess or have in custody any migratory bird or part thereof, taken in violation of subparts C and D of this part.

(ii) Upon request from a Service law enforcement officer, hunters taking, attempting to take, or transporting migratory birds taken during the subsistence harvest season must present them to the officer for species identification.

(h) *Interior Region.* (1) *Season:* April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only.

(2) *Closure:* June 15–July 15.

(i) *Upper Copper River Region* (Harvest Area: Game Management Units 11 and 13) (Eligible communities: Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) *Season:* April 15–May 26 and June 27–August 31.

(2) *Closure:* May 27–June 26.

(3) The Copper River Basin communities listed above also documented traditional use harvesting birds in Game Management Unit 12, making them eligible to hunt in this unit using the seasons specified in paragraph (h) of this section.

(j) *Gulf of Alaska Region.* (1) Prince William Sound Area West (Harvest area: Game Management Unit 6[D]), (Eligible Chugach communities: Chenega Bay, Tatitlek):

(i) *Season:* April 2–May 31 and July 1–August 31.

(ii) *Closure:* June 1–30.

(2) Prince William Sound Area East (Harvest area: Game Management Units 6[B]and [C]—Barrier Islands between Strawberry Channel and Softtuk Bar), (Eligible Chugach communities: Cordova, Tatitlek, and Chenega Bay):

(i) *Season:* April 2–April 30 (hunting); May 1–May 31 (gull egg gathering).

(ii) *Closure:* May 1–August 31 (hunting); April 2–30 and June 1–August 31 (gull egg gathering).

(iii) *Species Open for Hunting:* Greater white-fronted goose; snow goose; gadwall; Eurasian and American wigeon; blue-winged and green-winged teal; mallard; northern shoveler; northern pintail; canvasback; redhead; ring-necked duck; greater and lesser scaup; king and common eider; harlequin duck; surf, white-winged, and black scoter; long-tailed duck; bufflehead; common and Barrow's goldeneye; hooded, common, and red-breasted merganser; and sandhill crane. Species open for egg gathering: Glaucous-winged, herring, and mew gulls.

(iv) *Use of Boats/All-Terrain Vehicles:* No hunting from motorized vehicles or any form of watercraft.

(v) *Special Registration:* All hunters or egg gatherers must possess an annual permit, which is available from the Cordova offices of the Native Village of Eyak and the U.S. Forest Service.

(3) Kachemak Bay Area (Harvest area: Game Management Unit 15[C] South of a line connecting the tip of Homer Spit to the mouth of Fox River) (Eligible Chugach Communities: Port Graham, Nanwalek):

(i) *Season:* April 2–May 31 and July 1–August 31.

(ii) *Closure:* June 1–30.

(k) *Cook Inlet.* (Harvest area: Portions of Game Management Unit 16[B] as specified below) (Eligible communities: Tyonek only):

(1) *Season:* April 2–May 31—That portion of Game Management Unit 16(B) south of the Skwentna River and west of the Yentna River, and August 1–31—That portion of Game Management Unit 16(B) south of the Beluga River, Beluga Lake, and the Triumvirate Glacier.

(2) *Closure:* June 1–July 31.

(l) *Southeast Alaska.* (1) Community of Hoonah (Harvest area: National Forest lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting (50 CFR part 100.3(a)):

(i) *Season:* Glaucous-winged gull egg gathering only: May 15–June 30.

(ii) *Closure:* July 1–August 31.

(2) Communities of Craig and Hydaburg (Harvest area: Small islands and adjacent shoreline of western Prince of Wales Island from Point Baker to Cape Chacon, but also including Coronation and Warren islands):

(i) *Season:* Glaucous-winged gull egg gathering only: May 15–June 30.

(ii) *Closure:* July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay (Icy Cape to Point Riou), and coastal lands and islands bordering the Gulf of Alaska from Point Manby southeast to and including Dry Bay):

(i) *Season:* Glaucous-winged gull egg gathering: May 15–June 30.

(ii) *Closure:* July 1–August 31.

■ 4. Amend subpart D by adding § 92.32 to read as follows:

§ 92.32 Emergency regulations to protect Steller's eiders.

Upon finding that continuation of these subsistence regulations would pose an imminent threat to the conservation of threatened Steller's eiders *(Polysticta stelleri),* the U.S. Fish and Wildlife Service Alaska Regional Director, in consultation with the Co-management Council, will immediately under § 92.21 take action as is necessary to prevent further take. Regulation changes implemented could range from a temporary closure of duck hunting in a small geographic area to large-scale regional or Statewide long-term closures of all subsistence migratory bird

hunting. These closures or temporary suspensions will remain in effect until the Regional Director, in consultation with the Co-management Council, determines that the potential for additional Steller's eiders to be taken no longer exists.

Dated: January 16, 2018.

Jason Larrabee,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2018–02001 Filed 1–31–18; 8:45 am]

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Notices

Federal Register

Vol. 83, No. 22

Thursday, February 1, 2018

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

Submission for OMB Review; Comment Request

January 29, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by March 5, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: Accounting Requirements for RUS Electric and Telecommunications Borrowers.

OMB Control Number: 0572–0003.

Summary of Collection: Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture that makes loans (direct and guaranteed) to finance electric and telecommunications facilities in rural areas. This collection is primarily a recordkeeping requirement. 7 CFR parts 1767 and 1770 set forth basic accounting requirements for maintaining financial accounting records on an accrual basis that are unique to RUS borrowers. The agency is requiring borrowers to establish an index of records. RUS does not own or operate rural electric facilities. Its function is to provide, through self-liquidating loans and technical assistance, adequate and dependable electric and telecommunications service to rural people under rates and conditions that permit productive use of these utility services. RUS borrowers, as all businesses, need accounting systems for their own internal use as well as external use. Such records are maintained as part of normal business practices. Without systems, no records would exist, for example, or what they own or what they owe. Such records systems provide borrowers with information that is required by the manager and board of directors to operate on a daily basis, to complete their tax returns, and to support requests to state regulatory commissions for rate approvals.

Need and Use of the Information: Currently there are approximately 600 active electric borrowers and 350 RUS telecommunications borrowers. Borrowers may utilize any information technology that meets their records management needs. RUS uses the information to evaluate a borrower's financial performance, to determine whether current loans are at risk, and to determine the credit worthiness of future loans. If basic financial records were not maintained, the borrower, its investors, and RUS would be unable to evaluate a borrower's financial performance, to determine whether current loans are at risk, and to determine the credit worthiness of future loans.

Description of Respondents: Business or other-for-profit; Not-for-profit institutions.

Number of Respondents: 950.

Frequency of Responses: Recordkeeping; Reporting: On Occasion.

Total Burden Hours: 25,650.

Rural Utilities Service

Title: 7 CFR part 1724 and Part 1738 Electric Engineering, Architectural Services and Design Policies and Procedures; and Rural Broadband Access Loans and Loan Guarantees.

OMB Control Number: 0572–0118.

Summary of Collection: The Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.,* as amended, authorizes Rural Utilities Service (RUS) to make loans in several States and Territories of the United States for broadband access and rural electrification and the furnishing and improving of electric energy to persons in rural areas. Title 7 CFR 1724 requires each borrower to select a qualified architect to perform certain architectural services and to use the designated form that provides for these services. The agency has developed standardized contractual forms used by borrowers to contract for services.

Need and Use of the Information: The information collected stipulates the parties to the agreement, contain certain information relating to the approved loan or loan guarantee, and provide detailed contractual obligations and services to be provided and performed relating to construction, project design, construction management, compensation, and related information. The contractual forms provide standardized contract agreements between the electric or broadband borrower and the engineering or architectural firm providing services to the borrower. This has resulted in substantial savings to borrowers by reducing preparation of the documentation and the costly review by the government.

Description of Respondents: Business or other for-profit.

Number of Respondents: 59.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 63.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–01983 Filed 1–31–18; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0002]

Notice of Request for Revision To and Extension of Approval of an Information Collection; Trichinae Certification Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of an approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the voluntary Trichinae Certification Program.

DATES: We will consider all comments that we receive on or before April 2, 2018.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2018-0002.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0002, 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/#!docket Detail;D=APHIS-2018-0002* 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.

FOR FURTHER INFORMATION CONTACT: For information on the Trichinae Certification Program, contact Dr. John Korslund, Staff Epidemiologist, Surveillance, Preparedness and Response Services, VS, APHIS, 4700 River Road, Unit 46, Riverdale, MD 20737; (301) 851–3468. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Trichinae Certification Program.

OMB Control Number: 0579–0323.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of livestock diseases and pests and to conduct programs to detect, control, and eradicate pests and diseases of livestock. In addition, under the Agricultural Marketing Act of 1946 (7 U.S.C. 1622), the APHIS Administrator has authority with respect to voluntary inspection and certification of animal products and the inspection, testing, treatment, and certification of animals.

APHIS regulations in 9 CFR part 149 contain certification requirements for the voluntary Trichinae Certification Program, which is a cooperative effort by APHIS and the U.S. pork industry. The program is intended to enhance the ability of swine producers, as well as slaughter facilities and other persons that handle or process swine from pork production sites that have been certified under the program, to export fresh pork and pork products to foreign markets.

There are a number of information collection activities associated with the voluntary Trichinae Certification Program, such as requests to temporarily withdraw from the program, notification to APHIS of program withdrawal, requests for review of audit results or other determinations, certification site audit forms and requests for certification site audits, spot audits, animal disposal plans, animal movement records, rodent control logbooks, feed mill quality assurance affidavits, slaughter testing records, and recordkeeping.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.48 hours per response.

Respondents: Auditors (accredited veterinarians or State animal health officials), pork producers, mill managers, slaughter facility personnel, and personnel from approved laboratories.

Estimated annual number of respondents: 66.

Estimated annual number of responses per respondent: 16.

Estimated annual number of responses: 1,085.

Estimated total annual burden on respondents: 521 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 26th day of January 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–01993 Filed 1–31–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Withdrawal of the Notice of Funds Availability (NOFA) for and the Cancellation of the Farm-to-Fleet Feedstock Program Biofuel Production Incentive (BPI)

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice of withdrawal and cancellation.

SUMMARY: The U.S. Department of Agriculture (USDA) Commodity Credit Corporation (CCC) has withdrawn support for the Farm-to-Fleet BPI Program, and is cancelling funding for the BPI payments to companies that are refining biofuel in the United States from certain domestically grown feedstocks converted to drop-in biofuel for delivery to supply biofuels to the Navy. USDA has reassessed how to best use limited available funds and has determined that the BPI is no longer a priority for CCC funding. The impact of this withdrawal is that suppliers of fuel containing a biofuel blend to the U.S. Navy are no longer eligible to receive a CCC incentive payment, through the Farm-to-Fleet BPI Program.

DATES: *Effective:* February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Kelly Novak, (202) 720–4053.

SUPPLEMENTARY INFORMATION: A notice of funds availability for the Farm-to-Fleet Feedstock BPI was published in the **Federal Register** on December 29, 2016, (81 FR 95956–95958). The BPI payments were intended to support a joint USDA and U.S. Navy Farm-to-Fleet Program that was announced in December 2013, which provided incentive funds to companies that are refining biofuel in the United States from certain domestically grown feedstocks converted to drop-in biofuel for delivery to supply biofuels to the Navy.

CCC funds, administered by the Farm Service Agency (FSA), were used for BPI payments to help increase the domestic consumption of agricultural commodities in the biofuel market. Up to $50 million of CCC funds was announced as being available through FY 2018. This notice withdraws the availability of BPI payments for deliveries not yet solicited or procured by the U.S. Navy and Defense Logistics Agency (DLA) Energy office and cancels USDA support for biofuel blends solicited by the DLA Energy office and US Navy. Specifically, FSA will continue to make the BPI payments required under the existing commitments. BPI payments will continue to be made to the eligible claimant awarded a contract under DLA Energy's Rocky Mountain West solicitation (SPE600–17–R–0709) and BPI payments will be made on any awards resulting from the Rocky Mountain West and Inland East Gulf solicitations published prior to the publication of this withdrawal. No BPI payments will be made related to any DLA Energy solicitations that are announced after this withdrawal is published.

Steven J. Peterson,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2018–02028 Filed 1–31–18; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 131219999–7305–03]

RIN 0660–XC009

First Responder Network Authority; Revised National Environmental Policy Act Procedures and Categorical Exclusions

AGENCY: First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The First Responder Network Authority (''FirstNet'') publishes this notice of its final procedures for implementing the National Environmental Policy Act (''NEPA''). The final procedures include a revised list of, and replace, previously established categorical exclusions (''CEs'') and extraordinary circumstances.

DATES: These procedures take effect as of February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Eli Veenendaal, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 3122 Sterling Circle, Suite 100, Boulder, CO 80301 or *elijah.veenendaal@firstnet.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401 *et seq.*) (the ''Act'') established the First Responder Network Authority (''FirstNet'') as an independent authority within the National Telecommunications and Information Administration (''NTIA''). FirstNet's statutory mission is to take all actions necessary to ensure the establishment of a nationwide public safety broadband network (''NPSBN'').[1] Moreover, the Act meets a long-standing and critical national infrastructure need to create a single, nationwide interoperable network that will, for the first time, allow public safety entities such as police officers, fire fighters, emergency medical service professionals, and other public safety personnel to effectively communicate with each other across agencies and jurisdictions.

On April 28, 2014, FirstNet, as a newly created federal entity, published a notice in the **Federal Register** finalizing its NEPA implementing procedures.[2] These NEPA implementing procedures provided the framework for FirstNet's establishment of a NEPA compliance program and for applying the appropriate level of NEPA review for major federal actions related to the deployment of the NPSBN. More specifically, FirstNet's NEPA implementing procedures supplemented the Council on Environmental Quality (''CEQ'') regulations and provided guidance to FirstNet employees and potential Applicants regarding the procedural requirements for the application of NEPA.[3]

As it has continued to mature as an organization, FirstNet has identified the need to modify its NEPA implementing procedures and revise its list of categorical exclusions and extraordinary circumstances (CEs) to ensure that such procedures better align with FirstNet's statutory mission and activities related to the deployment of the NPSBN, as well as better assist FirstNet in complying with NEPA as well as CEQ and Federal Communications Commission (''FCC'') regulations. More specifically, FirstNet, as both an independent federal authority and a licensee of the FCC, must satisfy its own NEPA obligations as well as comply with FCC-promulgated NEPA procedures.[4]

Accordingly, on June 23, 2017, FirstNet published for comment proposed revisions to its NEPA implementing procedures and

[1] 47 U.S.C. 1426(b).

[2] FirstNet, National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 79 FR 23,950 (April 29, 2014).

[3] The term ''Applicant'' means any person, entity, or federal, state, tribal, or territorial government body that seeks to take an action related to the Nationwide Public Safety Broadband Network (NPSBN) or an action that is otherwise under the direct control and responsibility of FirstNet, including, but not limited to, actions that occur under any type of agreement related to the use of the spectrum licensed to FirstNet under station license call sign WQQE234, or actions requiring the approval of or funding provided by FirstNet.

[4] *See generally* 40 CFR 1507.3 (stating federal agencies with overlapping NEPA requirements related to the same project are encouraged to streamline their NEPA implementing procedures to avoid duplicative NEPA review).

categorical exclusions.[5] Publication of the notice began a 30-day comment period that ended on July 24, 2017. Comments were received from three (3) sources, consisting of the U.S. Department of the Interior (''DOI'') and two private citizens. A complete set of comments filed in response to the Revised First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions may be viewed at *https://www.regulations.gov/docketBrowser?rpp=25&po=0&dct=PS&D=FIRSTNET-2017-0001&refD=FIRSTNET-2017-0001-0001.* The final procedures are available for review at *www.firstnet.gov.*

FirstNet consulted with the CEQ on the proposed and final revisions to its NEPA implementing procedures and CEs. The CEQ issued a letter stating that it has reviewed the revised procedures, including CEs, and found it to be in conformity with NEPA and CEQ regulations.[6]

II. Comments and Agency Responses

Comments on the proposed procedures and categorical exclusions included several similar positions, inquiries both within and outside the scope of the procedures, and recommendations stemming from the proposed procedural revisions and categorical exclusions. FirstNet has carefully considered each of the comments submitted, grouped and summarized the comments by issues raised, and responded accordingly.

A. Use of Existing Infrastructure

Comment: One commenter recommended deploying network infrastructure on lands that have already been commercially developed to help mitigate the environmental impact of network deployment on public lands.

Response: FirstNet agrees with the comment, and, consistent with the recommendation and its mandate under the Act, has sought and entered into an agreement to utilize, to the maximum extent economically desirable, existing commercial or other communications infrastructure in the establishment of the NPSBN.[7]

B. Use of Plain Language

Comment: One commenter expressed concern that the references in the proposed procedures to the FCC regulations are unclear, and that the actual proposed changes and process are not written in ''plain English'' as required by law.

Response: FirstNet disagrees that its revised NEPA procedures do not conform to the plain language requirements established by the *Plain Writing Act of 2010* (5 U.S.C. 301 *et seq.*) (''PWA'') and reiterates that the references to the FCC regulations are necessary to support its compliance with both NEPA and FCC environmental rules.

The PWA defines the term ''plain writing'' to mean writing that is clear, concise, well-organized, and follows best practices appropriate to the subject or field and intended audience.[8] In drafting the revised NEPA procedures, FirstNet sought to follow established plain language guidelines, including those promulgated by the Department of Commerce and those developed by the Office of Management and Budget to provide the agency's guidance for complying with the PWA.[9] In accordance with the PWA and relevant guidelines, FirstNet's implementing procedures were drafted in a manner that sought to follow best practices appropriate to the subject or field and intended audience.

In particular, FirstNet, as both a Federal entity and an FCC spectrum licensee, drafted the revised procedures to align its responsibility to comply with NEPA with the requirements placed upon it as an FCC licensee.[10] Consequently, FirstNet's NEPA implementing procedures, including the references to the FCC regulations, are primarily intended to inform FirstNet's personnel and applicants, as defined in its NEPA implementing procedures, of FirstNet's process for complying with NEPA and CEQ regulations while also complying with FCC regulations. Accordingly, FirstNet's use of, and references to, the FCC regulations in the revised implementing procedures are necessary to ensure that FirstNet's implementing procedures align with the FCC environmental rules that are already applicable to FirstNet.

C. Protections for Migratory Birds

Comment: Two commenters, consisting of the DOI and one private citizen, focused their comments on whether the revised procedures include sufficient environmental review requirements to protect migratory birds. In particular, the DOI requested that FirstNet's procedures include a process for ensuring compliance with the Bald and Golden Eagle Protection Act (''BGEPA''), Migratory Bird Treaty Act (''MBTA''), and Executive Order (E.O.) 13186, Responsibilities of Federal Agencies to Protect Migratory Birds.

Response: FirstNet acknowledges the comments and asserts its revised NEPA implementing procedures sufficiently consider environmental resources, as well as support compliance with environmental statutes and regulations that are applicable to the deployment of the NPSBN, including those related to migratory birds. In particular, FirstNet's revised NEPA implementing procedures include, among other statutory and regulatory references, specific language identifying the BGEPA, and MBTA as well as E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds as areas, that should be considered, as appropriate, as part of a NEPA review. For example, the section entitled ''Environmental Review and Consultation Requirements for NEPA Review,'' requires FirstNet to prepare NEPA documents concurrently and integrated with environmental analyses and related surveys and studies required by applicable environmental laws and E.O., including the BGEPA and MBTA.[11] Similarly, Appendix D specifies that during the development of a NEPA review, FirstNet should consider the applicability of BGEPA, MBTA, and E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds as part of a NEPA review.[12]

FirstNet originally added and has retained the references to these statutes based on previous comments from the DOI.[13] Accordingly, FirstNet's NEPA review process, inclusive of the existing language related to MBTA and BGEPA, adequately accounts for the resources protected by these statutes and regulations when applicable to a

[5] FirstNet, Revised National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 82 FR 28,621 (June 23, 2017).

[6] *See* CEQ FirstNet Conformity Letter (January 29, 2018) available at *www.firstnet.gov.*

[7] 47 U.S.C. 1426(b).

[8] 5 U.S.C. 301.3.

[9] *See* Department of Commerce PLAIN Language, *available at https://www.commerce.gov/page/department-commerce-plain-language*; *See also* Federal Plain Language Guidelines, *available at http://www.plainlanguage.gov/howto/guidelines/FederalPLGuidelines/FederalPLGuidelines.pdf.*

[10] *See* 47 U.S.C. 1421(a) (consistent with this provision, the FCC granted an exclusive license to FirstNet for the use of the 700 MHz D block spectrum under Call Sign WQQE234 on November 15, 2012).

[11] FirstNet, National Environmental Policy Act Implementing Procedures (Revised June 2017) available at *https://www.firstnet.gov/sites/default/files/FirstNet%20Revised%20Implementing%20Procedures%20%0;28Updated%20June%202017%29.pdf.*

[12] *See* FirstNet, Procedures for Implementing the National Environmental Policy Act, Appendix A—List of Authorities, available at *https://www.firstnet.gov/sites/default/files/FirstNet%20Revised%20Implementing%20Procedures%20%28Updated%20June%202017%29.pdf.*

[13] FirstNet, National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 79 FR 23,950, 23,953 (April 29, 2014).

FirstNet proposed action subject to NEPA review.

Comment: The DOI recommended that FirstNet's NEPA implementing procedures should be explicitly more protective of migratory birds than the FCC's procedures. The DOI states that the FCC does not ''authorize or approve'' the siting of towers, and therefore does not have as great a need for procedures for site-specific environmental review and compliance. DOI argues that in contrast to the FCC, FirstNet has a ''greater degree of authority and responsibility for siting of communication towers and is conducting several related Environmental Impact Statements.'' Consequently, DOI argues that FirstNet's procedures should ''be explicitly more protective'' of migratory birds.

Response: FirstNet disagrees with both the DOI's: (1) Assertion that FirstNet has greater degree of authority for siting of communications towers than the FCC and (2) recommendation that FirstNet's NEPA implementing procedures should be explicitly more protective of migratory birds than those of the FCC.

First, in regard to the siting of communication towers, the DOI appears to be confused about the statutory roles of both FirstNet and the FCC and the nature of the relationship between the agencies. The FCC, not FirstNet, is the federal agency primarily responsible for implementing and enforcing the nation's communications law and regulations, including the management and licensing of the electromagnetic spectrum for commercial use.[14] As part of its responsibilities, the FCC requires its licensees and registrants conducting tower or antenna siting activities (*e.g.,* building a new tower or collocating on an existing structure) to comply with FCC rules for environmental review.[15] These rules ensure that licensees and registrants take appropriate measures to protect environmental and historic resources, support FCC compliance with its obligations under NEPA and other applicable environmental laws and regulations, and consider the potential environmental impact of their actions.[16]

FirstNet, as a point of fact, is a licensee of the FCC and is subject to FCC environmental rules, including those related to tower and antenna siting.[17] FirstNet's authority is, therefore, limited to its express statutory mission to ensure the establishment of the NPSBN which is not greater than, but, rather, subject to, applicable FCC rules and regulations, including those environmental rules applicable to tower and antenna siting. Accordingly, the DOI's comments that FirstNet has a greater degree of authority for siting communications towers than the FCC is incorrect.

Furthermore, as mentioned above, FirstNet asserts that its revised NEPA implementing procedures sufficiently consider environmental resources under NEPA and support compliance with environmental statutes and regulations applicable to the deployment of the NPSBN. FirstNet disagrees with DOI that it must have environmental review standards explicitly more protective of migratory birds than those of the FCC as such requirements would jeopardize FirstNet's ability to fulfill its statutory mission.

FirstNet's statutory mission, as previously stated, is to ensure the establishment of the NPSBN, and in doing so, make efforts to speed the deployment of the network in order to make services available for public safety entities.[18] In addition, FirstNet is required to be a permanent self-funding entity that supports its operations and network deployment primarily through the assessment of various fees.[19] Consequently, to help ensure successful network deployment and ongoing operations, FirstNet, in accordance with its enabling legislation, entered into a public-private arrangement to build, operate, and maintain the NPSBN.[20] As a result, the NPSBN will be built, owned, and operated by a private company as a commercial wireless telecommunications network and must compete in the open market for public safety entity customers.

To that end, additional environmental requirements above and beyond those legally required of all FCC licensees would likely disadvantage FirstNet in its efforts to provide timely and competitively priced services to public safety entities due to the addition of unnecessary costs and subsequent delays in network deployment stemming from these requirements. As a result, FirstNet's ability to meet it statutory mandate and establish and ensure the on-going viability of an interoperable, nationwide broadband network for public safety would be put at significant risk. Accordingly, because the revisions to FirstNet's NEPA implementing procedures comply with NEPA and CEQ regulations, as well as existing FCC environmental rules applicable to other licensees, the revised NEPA implementing procedures are sufficient to account for environmental resources, such as migratory birds, that may be impacted by network deployment.

D. Scope of Term ''Wildlife Preserve''

Comment: The DOI stated that ''wildlife preserve'' is not a term defined or used for lands managed by DOI. The DOI argued that FirstNet's use of this term in its procedures creates ambiguity regarding whether ''wildlife preserve'' includes National Park Systems units, many of which protect wildlife species. In particular, the DOI recommended FirstNet not remove the original language that identifies the scope of environmentally sensitive areas, and suggested that FirstNet continue to include explicit language accounting for Fish and Wildlife Refuge lands.

Response: FirstNet acknowledges the comment, but believes the use of the term ''wildlife preserve'' in concert with the other newly established extraordinary circumstances in its NEPA procedures sufficiently encompasses a proposed action that would fall within the jurisdiction of another federal agency, including National Park Systems units.[21]

More specifically, FirstNet's full list of extraordinary circumstances encompasses resources beyond ''wildlife preserves,'' and includes both ''wilderness areas'' and ''areas that may affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531) (''ESA'').''[22]

Furthermore, as a general matter, NEPA requires federal agencies to coordinate environmental reviews with agencies with jurisdiction over specific resources.[23] Thus, FirstNet, when applicable to a proposed action, would be required to coordinate with DOI in

[14] *See generally* Communication Act of 1934 (47 U.S.C. 151 *et. seq.*); *see generally also* FCC website available at *https://www.fcc.gov/about-fcc/what-we-do.*

[15] *Id.*

[16] *Id.*

[17] *See* 47 U.S.C. 1421(a).

[18] *See generally* 47 U.S.C. 1426(b).

[19] *See* 47 U.S.C. 1428(b).

[20] *See generally* 47 U.S.C. 1426(b), 1428(a)(2).

[21] In response to DOI's comment the term ''environmental sensitive areas'' as used in its implementing procedures was not based on any express statutory definition promulgated by DOI or any other agency.

[22] *See* FirstNet, Procedures for Implementing the National Environmental Policy Act, Appendix C-List of Extraordinary Circumstances, available at *https://www.firstnet.gov/sites/default/files/FirstNet%20Revised%20Implementing%20Procedures%20%28Updated%20June%202017%29.pdf.*

[23] *See* 40 CFR 1502.25.

order to comply with NEPA. For instance, FirstNet's obligation to account for threatened or endangered species or designated critical habitats under the ESA, is not absolved under the revised NEPA implementing procedures.[24]

Moreover, NPSBN deployment on federal lands or impacting resources under another agency's jurisdiction, including the DOI, will be identified and considered by FirstNet under NEPA, at a minimum, if not directly, through other applicable processes (*e.g.,* permits, licenses) necessary to deploy the network. For example, construction of a new or replacement of an old tower on land managed by the National Park Services (NPS) would likely require FirstNet, or its Applicant, to apply for a Right-of-Way permit, which would trigger a NEPA review by both FirstNet and NPS. In such cases, FirstNet, consistent with CEQ regulations, would coordinate with the NPS to provide the environmental analysis necessary to support both its own and the NPS NEPA review and determination, which would presumably cover resources under the jurisdiction of NPS.[25] Similarly, where NPSBN deployment occurs on non-federal lands, FirstNet, as mentioned above, must still comply with existing environmental laws (*e.g.,* ESA, MBTA, and BGEPA) that may apply to the proposed action. Thus, to the extent these laws apply and require additional consultation or additional environmental analysis prior to undertaking the proposed action, FirstNet, in addition to complying with the specific laws and consistent with its revised implementing procedures, would consider this information as part of any NEPA review.

Furthermore, FirstNet, in accordance with its implementing procedures, upon reviewing a proposed action that would otherwise be categorically excluded, including those installations described by DOI, could determine that the proposed action may potentially have a significant impact and on its own motion require the development of an environmental assessment.[26]

Accordingly, as previously stated, the revised NEPA implementing procedures adequately account for environmental resources, including those under the jurisdiction of DOI, that may be impacted by network deployment and comply with the requirements established by NEPA and CEQ regulations.

Comment: The DOI requested FirstNet address why it is proposing to modify the extraordinary circumstance in Appendix D related to ''environmentally sensitive'' resources, especially in light of the previous inclusion of language to this CE that was added in the response to DOI comments on FirstNet's originally proposed FirstNet NEPA procedures.

Response: FirstNet, as it has continued to mature as an organization, has identified a need to modify its NEPA implementing procedures, CEs, and related extraordinary circumstances to ensure that the standards and process related to NEPA review better aligned with FirstNet's statutory mission and activities related to the deployment of the NPSBN, as well as better assist FirstNet in complying with NEPA as well as CEQ and FCC regulations. Specifically, when FirstNet finalized its original NEPA implementing procedures, the network architecture and operational model for the NSPBN had not yet been finalized. However, since the original NEPA implementing procedures were finalized, FirstNet has identified and approved a network architecture and operation model. Moreover, FirstNet has completed the statutorily mandated request for proposal process, and has entered into a public-private partnership to build, operate, improve, and maintain the NPSBN.[27] These changes required FirstNet to review its NEPA implementing procedures and current CEs to ensure they reflected current agency policies, procedures, program, and mission.[28]

During this review, FirstNet identified that as both an independent federal authority and a licensee of the FCC, it must comply with potentially duplicative regulations, such as those imposed under NEPA, CEQ regulations, and FCC regulations. In particular, FirstNet determined that all NPSBN proposed activities undertaken would be subject to both FirstNet NEPA procedure and FCC rules and regulations. Consequently, FirstNet conducted a review comparing its existing implementing procedures, CEs, and extraordinary circumstances with the FCC environmental rules and determined that aligning the FirstNet and FCC NEPA processes, including CEs and extraordinary circumstances, was necessary in order to avoid duplicating analysis and documentation resulting in additional costs or delays in network deployment. A key part of aligning these processes was ensuring that the FirstNet processes and standard of review, including CEs and extraordinary circumstances, were consistent with the FCC environmental rules, which necessitated removing and replacing previously established extraordinary circumstances. Accordingly, as the FCC has well established and applied environmental rules for complying with NEPA, specifically applicable to tower construction and siting, FirstNet, among other modifications, removed its previously established categorical exclusion referencing ''environmentally sensitive'' resources and replaced it with multiple other extraordinary circumstances, which, as discussed above, FirstNet considers both sufficient to account for resources previously identified as ''environmentally sensitive,'' while ensuring a consistent and streamlined NEPA review process as contemplated by CEQ regulations and guidance.

E. General Requirements for Environmental Assessments

Comment: The DOI expressed concerns that all towers lower than 450 feet may be pre-determined as CE eligible and recommended FirstNet prepare an environmental assessment for all new installations that are above 199 feet above ground level (AGL), not co-located with existing facilities or are guyed. Moreover, DOI recommended adherence to FWS Recommend Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning.

Response: FirstNet disagrees with the recommendation that new installations that are above 199 feet AGL, not co-located with existing facilities, or are guyed require: (1) An environmental assessment and (2) adherence to the FWS Recommended Best Practices for Communications Tower Design, Siting, Construction, Operation and Decommissioning.[29]

First, as a point of clarity and contrary to DOI's concern, FirstNet will not pre-determine any proposed action, including towers lower than 450, are

[24] *See e.g.,* Endangered Species Act, 16 U.S.C. 1531 *et. seq.; See also e.g.,* 16 U.S.C. 1531 *et seq.* (which, similar other statutes and regulations, apply to actions separate and independent from NEPA).

[25] *See generally* 40 C.F.R 1502.25.

[26] *See* FirstNet, Procedures for Implementing the National Environmental Policy Act, Appendix C—List of Extraordinary Circumstances, available at *https://www.firstnet.gov/sites/default/files/FirstNet%20Revised%20Implementing%20Procedures%20%28Updated%20June%202017%29.pdf.*

[27] Award Notice, FirstNet Nationwide Public Safety Broadband Network *available at https://www.fbo.gov/notices/6d45e0f8f3f4911f44f9f5b77d614952.*

[28] *See* 40 CFR 1506.3.

[29] See FWS, Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning (August 2016), *https://www.fws.gov/migratorybirds/pdf/management/usfwscommtowerguidance.pdf.*

eligible for a CE as such a determination would be inconsistent with NEPA or CEQ regulations. Specifically, NEPA and CEQ regulations require that an agency consider and make a determination related to the environmental impacts of a proposed action.[30] FirstNet, consistent with CEQ regulations and its revised implementing procedures, will conduct site-specific reviews for each new tower to determine the appropriate level of NEPA review.

Second, FirstNet asserts that compliance with its revised NEPA implementing procedures will provide sufficient information for FirstNet to review and make a determination as to the appropriate level of NEPA review for any site-specific action, including new installations that are above 199 feet AGL, not co-located with existing facilities or are guyed. In particular, as discussed above, FirstNet's revised NEPA implementing procedures include, among other statutory and regulatory references, specific language identifying the BGEPA, MBTA, and E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds as areas, that should be considered, as appropriate, as part of a NEPA review.[31]

Furthermore, as previously stated, FirstNet, in accordance with its implementing procedures, upon reviewing a proposed action that would otherwise be categorically excluded, including those installations described by DOI, could, as previously mentioned, determine that the proposed action may potentially have a significant impact and on its own motion require the development of an environmental assessment.[32]

Accordingly, FirstNet's NEPA review process, inclusive of the existing language related to MBTA and BGEPA and in addition to its various other extraordinary circumstances, adequately accounts for the resources and potential environmental impacts necessary for FirstNet to make a NEPA determination related to the proposed action, including whether the development of an EA is necessary to determine the environmental impacts.

Finally, FirstNet recognizes, as noted by the DOI, that the FWS has formulated best practices for tower siting to address the potential effects of tower and antenna structures on migratory birds. FirstNet has taken steps that will align the deployment of the NPSBN with these best practices, particularly by adopting a strategy that will facilitate tower co-locations. Consistent with the DOI's tower siting guidance, FirstNet has sought and entered into an agreement to utilize, to the maximum extent economically desirable, existing commercial or other communications infrastructure in the establishment of the NPSBN.[33] As a result, the vast majority of antenna structures currently planned for deployment on the NPSBN will be co-locations on existing communication towers or other structures. Thus, FirstNet, in accordance with the DOI voluntary guidelines, has already undertaken efforts to reduce the potential impacts of NPSBN deployment on migratory birds through the design of its program.

Nevertheless, FirstNet, consistent with the FCC's recommendation to its licensees, will consider implementing these voluntary guidelines, as practicable and feasible, in the deployment of the NPSBN, but will not make them a mandatory requirement of NPSBN deployment.

F. Other Agency Jurisdiction

Comment: DOI recommended that when FirstNet applies categorical exclusions for the placement of antennas in another agency's jurisdiction, FirstNet should provide that agency with some level of documentation regarding the environmental effects to assist the permitting agency in its review of the proposed action.

Response: FirstNet agrees, and, consistent with CEQ regulations, intends to coordinate and provide environmental documents, as appropriate, to other federal agencies having jurisdiction over all or part of a FirstNet proposed action, including those that may have permitting authority applicable to NPSBN deployment.[34]

Dated: January 29, 2018.

Elijah Veenendaal,

Attorney-Advisor, First Responder Network Authority.

[FR Doc. 2018–02020 Filed 1–31–18; 8:45 am]

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[30] *See* FirstNet, Procedures for Implementing the National Environmental Policy Act—E0. Environmental Review and Consultation Requirements for NEPA Review, available at *https://www.firstnet.gov/sites/default/files/FirstNet%20Revised%20Implementing%20Procedures%20%28Updated%20June%202017%29.pdf.*

[31] FirstNet also notes that, in general, the FCC rules require new tower construction to (1) receive approval from the state or local governing authority for the proposed site; (2) comply with FCC rules implementing NEPA; (3) comply with *ESA* and *NHPA* (including Section 106). Moreover, depending on the tower's height and location (generally towers more than 200 feet above ground level or located near an airport), construction may also require Federal Aviation Administration (FAA) notification and clearance and Antenna Structure Registration (ASR) with the FCC. Thus, in addition to FirstNet's implementing procedures, there are other regulatory requirements applicable to FirstNet, as an FCC licensee, which may provide information related to environmental resources and be considered as part of a NEPA and ensure compliance with other applicable laws.

[32] *See* FirstNet, Procedures for Implementing the National Environmental Policy Act, Appendix C-List of Extraordinary Circumstances, available at *https://www.firstnet.gov/sites/default/files/FirstNet%20Revised%20Implementing%20Procedures%20%28Updated%20June%202017%29.pdf.*

[33] *See* Award Notice, *supra* note 27.

[34] *See generally* 40 CFR 1502.25.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for March 2018

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in March 2018 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Reviews).

	Department contact
Antidumping Duty Proceedings	
Drawn Stainless Steel Sinks from China, (A–570–983) (1st Review)	Robert James, (202) 482–0649.
Countervailing Duty Proceedings	
Drawn Stainless Steel Sinks from China, (C–570–984) (1st Review)	Robert James, (202) 482–0649.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in March 2018.	

Commerce's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year* (*Sunset) Reviews* provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: January 26, 2018.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–02003 Filed 1–31–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–059, C–533–874]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From the People's Republic of China and India: Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing countervailing duty orders on certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the People's Republic of China (China) and India.

DATES: February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Shanah Lee at (202) 482–6386, AD/CVD Operations, Office III, and Ryan Mullen at (202) 482–5260, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on December 11, 2017, Commerce published its affirmative final determinations in the countervailing duty investigations of cold-drawn mechanical tubing from China and India.[1] On January 24, 2018, the ITC notified Commerce of its final affirmative determination, pursuant to section 705(d) of the Act, that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of cold-drawn mechanical tubing from China and India.[2] Further, the ITC determined that critical circumstances do not exist with respect to imports of cold-drawn mechanical tubing from China.

Scope of the Orders

The product covered by these orders is cold-drawn mechanical tubing from China and India. For a complete description of the scope of these orders, *see* the Appendix to this notice.

Countervailing Duty Orders

As stated above, on January 24, 2018, in accordance with sections 705(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured by reason of subsidized imports of cold-drawn mechanical tubing from China and India.[3] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing these countervailing duty orders. Because the ITC determined that imports of cold-drawn mechanical tubing from China and India are materially injuring a U.S. industry, unliquidated entries of such merchandise from China and India, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties on unliquidated entries of cold-drawn mechanical tubing from China and India entered, or withdrawn from warehouse, for consumption on or after September 25, 2017, the date of publication of the *Preliminary Determinations,*[4] but will not include entries occurring after the expiration of the provisional measures period and before publication in the **Federal Register** of the ITC's final injury determination.

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation on all entries of subject merchandise from China and India, applicable the

[1] *See 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,* 82 FR 58175 (December 11, 2017) (*China Final Determination*); and *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Countervailing Duty Determination,* 82 FR 58172 (December 11, 2017).

[2] *See* letter from the ITC concerning imports of cold-drawn mechanical tubing from China and India (Investigation Nos. 701–TA–576–577 (Final)), dated January 24, 2018 (ITC Notification Letter).

[3] *See* ITC Notification Letter.

[4] *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); *see also Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Affirmative Countervailing Duty Investigation,* 82 FR 44558 (September 25, 2017) (collectively, *Preliminary Determinations*).

date of publication of the ITC's notice of final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. We will also instruct CBP to require cash deposits for each entry of subject merchandise as indicated below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Exporter/Producer from China	Subsidy rate (Percent)
Jiangsu Hongyi Steel Pipe Co., Ltd [5]	21.41
Zhangjiagang Huacheng Import & Export Co., Ltd [6]	18.27
All-Others	19.84

Exporter/Producer from India	Subsidy rate (Percent)
Goodluck India Limited	8.02
Tube Investments of India Limited	42.60
All-Others	22.40

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of cold-drawn mechanical tubing from China, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after June 27, 2017 (*i.e.,* 90 days prior to the date of the publication of the *Preliminary Determination*), but before September 25, 2017 (*i.e.,* the date of publication of the *Preliminary Determination*).

Notification to Interested Parties

This notice constitutes the countervailing duty orders with respect to cold-drawn mechanical tubing from China and India pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are issued and published in accordance with section 706(a) and 19 CFR 351.211(b).

Dated: January 26, 2018.

P. Lee Smith,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix

Scope of the Orders

The scope of these orders 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 orders when it meets the physical description set forth above.

Steel products included in the scope of these orders 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 orders.

All products that meet the written physical description are within the scope of these orders 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 orders 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 orders:

(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;

[5] In *China Final Determination,* Commerce continued to find the following companies to be cross-owned with Jiangsu Hongyi Steel Pipe Co., Ltd.: Hongren Precision Pipe Manufacturing Co., Ltd and Changzhou Kemeng Mechanical Equipment Co., Ltd.

[6] *See Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Notice of Correction to Final Affirmative Countervailing Duty Determination of Critical Circumstances, In Part,* 83 FR 351 (January 3, 2018) (*China Correction Notice*). In *China Correction Notice,* Commerce clarified the names of the companies it found to be cross-owned with Zhangjiagang Huacheng Import & Export Co., Ltd.: Jiangsu 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.

- 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 orders.

The products subject to the orders 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 orders is dispositive.

[FR Doc. 2018–02045 Filed 1–31–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when Commerce will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after February 2018, Commerce does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Commerce is providing this notice on its website, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which Commerce intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of February 2018,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period of review
Antidumping Duty Proceedings	
Brazil:	
Stainless Steel Bar, A–351–835	2/1/17–1/31/18
Carbon and Alloy Steel Cut-to-Length Plate, A–351–847	2/1/17–1/31/18
France: Uranium, A–427–818	2/1/17–1/31/18
India:	
Certain Cut-To-Length Carbon-Quality Steel Plate, A–533–817	2/1/17–1/31/18
Certain Preserved Mushrooms, A–533–813	2/1/17–1/31/18
Frozen Warmwater Shrimp, A–533–840	2/1/17–1/31/18
Stainless Steel Bar, A–533–810	2/1/17–1/31/18
Indonesia:	
Certain Cut-To-Length Carbon-Quality Steel Plate, A–560–805	2/1/17–1/31/18
Certain Preserved Mushrooms, A–560–802	2/1/17–1/31/18
Italy: Stainless Steel Butt-Weld Pipe Fittings, A–475–828	2/1/17–1/31/18
Japan:	
Carbon Steel Butt-Weld Pipe Fittings, A–588–602	2/1/17–1/31/18
Stainless Steel Bar, A–588–833	2/1/17–1/31/18
Malaysia: Stainless Steel Butt-Weld Pipe Fittings, A–557–809	2/1/17–1/31/18
Mexico: Large Residential Washers, A–201–842	2/1/17–1/31/18
Philippines: Stainless Steel Butt-Weld Pipe Fittings, A–565–801	2/1/17–1/31/18
Republic of Korea:	
Certain Cut-To-Length Carbon-Quality Steel Plate, A–580–836	2/1/17–1/31/18
Large Residential Washers, A–580–868	2/1/17–1/31/18
Socialist Republic of Vietnam:	
Frozen Warmwater Shrimp, A–552–802	2/1/17–1/31/18
Steel Wire Garment Hangers, A–552–812	2/1/17–1/31/18
Utility Scale Wind Towers, A–552–814	2/1/17–1/31/18
South Africa: Carbon and Alloy Steel Cut-To-Length Plate, A–791–822	2/1/17–1/31/18
Taiwan: Crystalline Silicon Photovoltaic Products, A–583–853	2/1/17–1/31/18
Thailand: Frozen Warmwater Shrimp, A–549–822	2/1/17–1/31/18
The People's Republic of China:	
Certain Preserved Mushrooms, A–570–851	2/1/17–1/31/18
Crystalline Silicon Photovoltaic, A–570–010	2/1/17–1/31/18
Frozen Warmwater Shrimp, A–570–893	2/1/17–1/31/18
Heavy Forged Hand Tools, With or Without Handles, A–570–803	2/1/17–1/31/18
Large Residential Washers, A–570–033	7/26/16–1/31/18
Small Diameter Graphite Electrodes, A–570–929	2/1/17–1/31/18
Uncovered Innerspring Units, A–570–928	2/1/17–1/31/18
Utility Scale Wind Towers, A–570–981	2/1/17–1/31/18
Turkey: Carbon and Alloy Steel Cut-To-Length Plate, A–489–828	9/22/16–1/31/18
Countervailing Duty Proceedings	
India:	
Certain Cut-To-Length Carbon-Quality Steel Plate, C–533–818	1/1/17–12/31/17
Prestressed Concrete Steel Wire Strand, C–533–829	1/1/17–12/31/17
Indonesia: Certain Cut-To-Length Carbon-Quality Steel Plate, C–560–806	1/1/17–12/31/17
Republic of Korea:	
Certain Cut-To-Length Carbon-Quality Steel Plate, C–580–837	1/1/17–12/31/17
Large Residential Washers, C–580–869	1/1/17–12/31/17
Socialist Republic of Vietnam: Steel Wire Garment Hangers, C–552–813	1/1/17–12/31/17
The People's Republic of China:	
Crystalline Silicon Photovoltaic Products, C–570–011	1/1/17–12/31/17
Utility Scale Wind Towers, C–570–982	1/1/17–12/31/17
Suspension Agreements	
None.	

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts

it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[3] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[4] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *http://access.trade.gov.*[5] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of February 2018. If Commerce does not receive, by the last day of February 2018, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: January 26, 2018.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–02004 Filed 1–31–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) listed below. The International Trade Commission (the Commission) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s).

DATES: Applicable (February 1, 2018).

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty order(s): [1]

[2] *See also* the Enforcement and Compliance website at *http://trade.gov/enforcement/.*

[3] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[4] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[5] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[1] In addition, we note that in the sunset initiation notice that published on January 2, 2018 (83 FR 100) the Department inadvertently listed the incorrect case number for Utility Scale Wind Towers from Vietnam. The correct case number is A–552–814.

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–904	731–TA–1103	China	Activated Carbon, (2nd Review).	Matthew Renkey, (202) 482–2312.
A–570–866	731–TA–921	China	Folding Gift Boxes, (3rd Review).	Robert James, (202) 482–0649.
A–201–820	731–TA–747	Mexico	Fresh Tomatoes, (4th Review), (Suspension Agreement).	Matthew Renkey, (202) 482–2312.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerces's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *http://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.[2]

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[3] Parties must use the certification formats provided in 19 CFR 351.303(g).[4] Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

On April 10, 2013, Commerce modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).[5] Parties are advised to review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt,* prior to submitting factual information in these segments.[6]

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C),(D),(E),(F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[7]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: January 26, 2018.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–02005 Filed 1–31–18; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[3] *See* section 782(b) of the Act.

[4] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[5] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013).

[6] *See Extension of Time Limits,* 78 FR 57790 (September 20, 2013).

[7] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF934

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Stock ID Data Scoping Webinar for Atlantic Cobia (Rachycentron canadum)

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

ACTION: Notice of rescheduled SEDAR 58 Cobia Stock Identification Data Scoping Webinar.

SUMMARY: The SEDAR 58 Cobia Stock Identification Data Scoping webinar originally scheduled for January 22, 2018 had to be rescheduled due to the Federal government shutdown. The SEDAR 58 assessment(s) of the Atlantic stock(s) of cobia will consist of a series of workshops and webinars: Stock ID Workshop; Stock ID Review Workshop; Stock ID Joint Cooperator Technical Review; Data Workshop; Assessment Workshop and/or Webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The rescheduled SEDAR 58 Stock ID Data Scoping Webinar will be held on February 5, 2018, from 11 a.m. until 1 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on January 2, 2018 (83 FR 103).

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is typically a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing workshop and/or webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Stock ID Data Scoping Webinar are as follows:

1. Participants will review the SEDAR 58 Cobia Stock ID process.
2. Participants will identify potential data sources and discuss data needs and treatments in order to prepare for the Stock ID Workshop.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 26, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–01940 Filed 1–31–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) announces that on Wednesday, February 14, 2018, from 10:00 a.m. to 4:15 p.m., the CFTC's Technology Advisory Committee (TAC) will hold a rescheduled public meeting at the CFTC's Washington, DC headquarters. The TAC meeting, previously scheduled for January 23, 2018, from 10:00 a.m. to 4:00 p.m., was canceled and is now being rescheduled with less than fifteen days' notice due to the lapse in appropriations that closed the Federal Government. At the rescheduled meeting, the TAC will: (1) Discuss the scope, plan, and approach for the Committee's efforts in 2018; (2) explore timely topics and issues involving financial technology in CFTC regulated markets, potentially including blockchain/DLT, data standardization and analytics, algorithmic trading, virtual currencies, cybersecurity, and RegTech; and (3) identify work streams and/or subcommittee groups that can help generate actionable recommendations to the Commission on select issues.

DATES: The meeting will be held on Wednesday, February 14, 2018 from 10:00 a.m. to 4:15 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by Wednesday, February 21, 2018.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Written statements should be submitted by mail to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW,

Washington, DC 20581, attention: Office of the Secretary, or by electronic mail to: *secretary@cftc.gov.* Please use the title ''Technology Advisory Committee'' in any written statement you submit. Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, *www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel Gorfine, TAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, (202) 418–5625.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Toll Free: 1–866–844–9416.

International Toll and Toll Free: Will be posted on the CFTC's website, *http://www.cftc.gov,* on the page for the meeting, under Related Links.

Pass Code/Pin Code: 3599656.

The meeting agenda may change to accommodate other TAC priorities. For agenda updates, please visit the TAC committee site at: *http://www.cftc.gov/About/CFTCCommittees/Technology Advisory/tac_meetings.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website, *http://www.cftc.gov.* All written submissions provided to the CFTC in any form will also be published on the CFTC's website. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

Authority: 5 U.S.C. app. 2 § 10(a)(2).

Dated: January 29, 2018.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2018–02026 Filed 1–31–18; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for the Day of Service Project Collection Tool

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, CNCS is proposing to renew an information collection for the Day of Service Project Collection Tool.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 2, 2018.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention David Sherman, 250 E Street SW, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through *www.regulations.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

Comments submitted in response to this notice may be made available to the public through *regulations.gov*. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: David Sherman, 202–606–6986, or by email at *dsherman@cns.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Day of Service Project Collection Tool.

OMB Control Number: 3045–0122.

Type of Review: Renewal.

Respondents/Affected Public: Any person or group organizing a service project in conjunction with a CNCS initiative.

Total Estimated Number of Annual Respondents: 100,000.

Total Estimated Annual Frequency: Six times annually.

Total Estimated Average Response Time per Response: Average is 10 minutes.

Total Estimated Number of Annual Burden Hours: 100,000 hours

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Abstract: Currently CNCS is soliciting comments concerning its proposed renewal of Day of Service project promotion tool. Individuals organizing a volunteer event will be able to register their projects. This group includes national service grantees, corporations, volunteer organizations, and individuals. The Corporation wants to help promote activities across the country and also to be able to assess impact of the Corporation's initiatives. Information provided is purely voluntary and will not be used for any grant or funding support.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing

and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov*.

Dated: January 29, 2018.

Marc Young,

Acting Chief of External Affairs.

[FR Doc. 2018–02019 Filed 1–31–18; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2013–OS–0128]

Submission for OMB Review; Comment Request

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 5, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Request for Information Regarding Deceased Debtor, DD Form 2840; OMB Control Number 0730–0015.

Type of Request: Reinstatement.

Number of Respondents: 300.

Responses per Respondent: 1.

Annual Responses: 300.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 100 hours.

Needs and Uses: The information collection requirement is necessary to obtain information on deceased debtors from probate courts. Probate courts review their records to see if an estate was established. They provide the name and address of the executor or lawyer handling the estate. From the information obtained, DFAS submits a claim against the estate for the amount due to the United States.

Affected Public: State, local, or tribal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: January 29, 2018.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–01970 Filed 1–31–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–HA–0119]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 5, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: TRICARE Plus Enrollment Application and TRICARE Plus Disenrollment Request; DD Form 2853 and DD Form 2854; OMB Control Number 0720–0028.

Type of Request: Reinstatement.

Number of Respondents: 3,305.

Responses per Respondent: 1.

Annual Responses: 3305.

Average Burden per Response: 7 minutes.

Annual Burden Hours: 386.

Needs and Uses: The information collection requirement is necessary for enrollment and disenrollment in the Department of Defense's TRICARE Plus Health Plan established in accordance with Title 10 U.S.C. 1099 (which calls for a healthcare enrollment system) and 1086 (which authorizes TRICARE eligibility of Medicare Eligible Persons and has resulted in the development of a new enrollment option called TRICARE Plus) and the Assistant Secretary of Defense for Health Affairs Policy Memorandum to Establish the TRICARE Plus Program, June 22, 2001. The information collected hereby provides the TRICARE contractors with necessary data to determine beneficiary eligibility and to identify the selection of a health care option.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: January 29, 2018.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–01984 Filed 1–31–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Application for New Awards; Indian Education Formula Grants to Local Educational Agencies

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2018 for Indian Education Formula Grants to Local Educational Agencies, Catalog of Federal Domestic Assistance (CFDA) number 84.060A.

DATES:

Part I of Electronic Application System for Indian Education (EASIE) Applications Available: February 5, 2018.

Deadline for Transmittal of EASIE Part I: March 8, 2018.

Part II of EASIE Applications Available: April 9, 2018.

Deadline for Transmittal of EASIE Part II: May 17, 2018.

FOR FURTHER INFORMATION CONTACT: For questions about the Formula Grants program, contact Paulette Davis, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W227, Washington, DC 20202–6335. Telephone: (202) 260–2840 or by email: *paulette.davis@ed.gov.* For technical questions about the EASIE application and uploading documentation, contact the EDFacts Partner Support Center (PSC), telephone: 877–457–3336 (877–HLP–EDEN) or by email at: *eden_OIE@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), contact the Federal Relay Service (FRS), toll free, at 1–800–877–0996 or by email at: *federalrelay@sprint.com.*

SUPPLEMENTARY INFORMATION:

Note: Applicants must meet the deadlines for both EASIE Part I and Part II to be eligible to receive a grant. Any application not meeting the EASIE Part I or Part II deadline will not be considered for funding. Failure to submit the required supplemental documentation, described under *Content and Form of Application Submission* in section IV of this notice, by the EASIE Part I or II deadline will result in an incomplete application that will not be considered for funding. The Office of Indian Education (OIE) recommends uploading the documentation at least two days prior to each deadline date to ensure that any potential submission issues are resolved prior to the deadlines.

I. Funding Opportunity Description

Purpose of Program: The Indian Education Formula Grants to Local Educational Agencies (Formula Grants) program provides grants to support local educational agencies (LEAs), Indian Tribes and organizations, and other eligible entities in developing elementary and secondary school programs that serve Indian students. The U.S. Department of Education (Department) funds comprehensive programs that are designed to meet the unique cultural, language, and educational needs of American Indian and Alaska Native (AI/AN) students and ensure that all students meet challenging State academic standards.

As authorized under section 6116 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA),[1] the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with other relevant Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal funds that are to be used exclusively for Indian students. Instructions for submitting an integration of education and related services plan are included in the EASIE, which is described under *Application and Submission Information* in section IV of this notice.

Note: Under the Formula Grants program, all applicants are required to develop proposed projects in open consultation, including through public hearings held to provide a full opportunity to understand the program and to offer recommendations regarding the program (section 6114(c)(3)(C) of the ESEA), with parents of Indian children and teachers of Indian children, representatives of Indian Tribes on Indian lands located within 50 miles of any school that the LEA will serve if such Tribes have any children in such school, Indian organizations (IOs), and, if appropriate, Indian students from secondary schools. LEA applicants are required to develop proposed projects with the participation and written approval of a parent committee whose membership includes parents and family members of Indian children in the LEA's schools; representatives of Indian Tribes on Indian lands located within 50 miles of any school that the LEA will serve if such Tribes have any children in such school; teachers in the schools; and, if appropriate, Indian students attending secondary schools of the LEA (section 6114(c)(4) of the ESEA). The majority of the parent committee members must be parents and family members of Indian children (section 6114(c)(4) of the ESEA).

Definitions: The following definition is from section 6112(d)(3) of the ESEA:

Indian community-based organization (ICBO) means any organization that (1) is composed primarily of Indian parents, family members and community members, tribal government educational officials, and tribal members, from a specific community; (2) assists in the social, cultural, and educational development of Indians in such community; (3) meets the unique cultural, language, and academic needs of Indian students; and (4) demonstrates organizational and administrative capacity to manage the grant.

Statutory Hiring Preference:

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to IOs and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant.

(b) For purposes of this section, an Indian is a member of any federally recognized Indian Tribe.

Program Authority: 20 U.S.C. 7421 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as

[1] All references to the ESEA refer to the ESEA, as amended by the ESSA.

regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: The Administration has requested $100,190,000 for Indian Education Formula Grants to LEAs for FY 2018. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process should Congress appropriate funds for this program.

Estimated Range of Awards: $4,000 to $3,254,999.

Estimated Average Size of Awards: $77,069.

Estimated Number of Awards: 1,300.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

III. Eligibility Information

1. *Eligible Applicants:* The following entities are eligible under this program: Certain LEAs, including charter schools authorized as LEAs under State law, as prescribed by section 6112(b) of the ESEA; certain schools funded by the Bureau of Indian Education of the U.S. Department of the Interior (BIE), as prescribed by section 6113(d) of the ESEA; Indian Tribes and IOs under certain conditions, as prescribed by section 6112(c) of the ESEA; and ICBOs, as prescribed by section 6112(d) of the ESEA. Consortia of two or more LEAs, Indian Tribes, IOs, and ICBOs are also eligible under certain circumstances, as prescribed by section 6112(a)(4) of the ESEA.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* Section 6114(c)(1) of the ESEA requires an LEA to use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for services described in this application, and not to supplant such funds.

IV. Application and Submission Information

1. *How To Request an Application Package:* You can obtain a log-in and password for the electronic application for grants under this program by contacting the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are located in the Getting Started page in the EDFacts System Portal.

a. *Supplementary Documentation:* The EASIE application requires submission of the following supplementary documentation in electronic Portable Document Format (PDF):

(i) In EASIE Part I, applicants that are Tribes, IOs, or ICBOs must submit with their application a document to verify their eligibility. Each applicant that is a Tribe, IO, or ICBO must use the appropriate ''Applying in Lieu of the LEA'' agreement form no later than March 8, 2018. The details of the verification process, which are necessary to meet the statutory eligibility requirements for Tribes, IOs, and ICBOs, are in the application package. Applicants are required to use the correct applicant type eligibility verification document, all of which are available on the Getting Started page in the EDFacts System Portal as downloadable documents.

(ii) In EASIE Part I, an applicant that is the lead applicant for a consortium must upload a consortium agreement that meets the requirements of 34 CFR 75.128(b) no later than March 8, 2018. Applicants must use the consortium agreement that is available on the Getting Started page in the EDFacts System Portal as a downloadable document.

(iii) In EASIE Part II, for an applicant that is an LEA or a consortium of LEAs, the EASIE application requires the electronic PDF submission of the Indian Parent Committee Approval (PCA) form no later than the deadline for transmittal of EASIE Part II, which is May 17, 2018. Applicants are encouraged to begin planning parent committee meetings early to ensure parent committee signatures are obtained before EASIE Part II closes. The required form is available on the Getting Started page in the EDFacts System Portal.

3. *Submission Dates and Times:*

Part I of the Formula Grant EASIE Applications Available: February 5, 2018.

Deadline for Transmittal of EASIE Part I: March 8, 2018, 8:00:00 p.m., Washington, DC time.

Part II of the Formula Grant EASIE Applications Available: April 9, 2018.

Deadline for Transmittal of EASIE Part II: May 17, 2018, 8:00:00 p.m., Washington, DC time.

Applications for grants under this program must be submitted electronically using EASIE located in the EDFacts System Portal. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirements, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Not more than 5 percent of the funds provided to a grantee may be used for administrative costs (section 6115(d) of the ESEA). We reference regulations outlining other funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following website: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can

obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Formula Grants program, CFDA number 84.060A, must be submitted electronically using the EASIE application located in the EDFacts System Portal at *https://eden.ed.gov.*

Applications submitted in paper format will be rejected unless you qualify for one of the exceptions to the electronic submission requirement described later in this section under *Exception to Electronic Submission Requirement,* and follow the submission rules outlined therein.

Electronic Application System for Indian Education (EASIE): EASIE is an electronic application found in the EDFacts System Portal at *https://eden.ed.gov.* It is divided into two parts—EASIE Part I and EASIE Part II.

EASIE Part I, student count, provides the appropriate data-entry screens to submit your verified Indian student count totals. All applicants must submit a current Indian student count for FY 2018. Applicants must use the Indian Student Eligibility Certification Form (ED 506 Form) to document eligible Indian students; however, BIE schools may use either the Indian School Equalization Program (ISEP) count or the ED 506 Form count to verify their Indian student counts. Applicants must protect the privacy of all individual data collected and only report aggregated data to the Secretary.

Applicants that verify their Indian student count with the ED 506 Form must document their Indian student counts by completing the following: (1) Each year, the applicant must verify there is a valid ED 506 Form for each Indian child included in the count; (2) all ED 506 Forms included in the count must be completed, signed, and dated by the parent, and be on file; (3) the applicant must maintain a copy of the student enrollment roster(s) covering the same period of time indicated in the application as the ''count period''; and (4) each Indian child included in the count must be listed on the LEA's enrollment roster(s) for at least one day during the count period.

BIE schools that enter an ISEP count to verify their Indian student count must use the most current Indian student count certified by the BIE.

Once an Indian child is determined to be eligible to be counted for such grant award, the applicant must maintain a record of such determination and must not require a new or duplicate determination or form to be made for such child for a subsequent application for a grant under this subpart.

Applicants must also indicate the time span for the project objectives and corresponding activities and services for AI/AN students. Applicants can choose to set objectives that remain the same for up to four years in order to facilitate data collection and enhance long-term planning.

In EASIE Part II, all applicants must—

(1) Select the type of program being submitted as either regular formula grant program, formula grant project consolidated with a title I schoolwide program, or integration of services under section 6116 of the ESEA;

(2) Select the grade levels offered by the LEA or BIE school;

(3) Identify, from a list of possible Department grant programs (*e.g.,* ESEA title I), the programs in the LEA that are currently coordinated with a title VI project, or with which the school district plans to coordinate during the project year, in accordance with section 6114(c)(5) of the ESEA, and describe the coordination of services for AI/AN students with those grant programs;

(4) Describe the professional development opportunities that will be provided as part of your coordination of services to ensure that teachers and other school professionals who are *new* to the Indian community are prepared to work with Indian children, and that all teachers who will be involved in programs assisted by this grant have been properly trained to carry out such programs;

(5) Provide information on how the State assessment data of all Indian students (not just those served) are used. Indicate how you plan to disseminate information to the Indian community, parent committee, and Indian Tribes whose children are served by the LEA and how assessment data from the previous school year (SY) were used, as required by section 6114(6)(C) of the ESEA;

(6) Indicate when a public hearing was held for SY 2018;

(7) For an applicant that is an LEA, BIE school, or a consortium of LEAs or BIE schools, describe the process the applicant used to meaningfully collaborate with Indian Tribes located in the community in a timely, active, and ongoing manner in the development of the comprehensive program and the actions taken as a result of such collaboration;

(8) Identify specific project objectives that will further the goal of providing culturally responsive education for AI/AN students to meet their academic needs and help them meet State achievement standards, and identify the data sources that will be used to measure progress towards meeting project objectives;

(9) For an LEA that selects a schoolwide application, identify how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program;

(10) Submit a program budget based on the estimated grant amount that the EASIE system calculates from the Indian student count you submitted in EASIE Part I. After the initial grant amounts are determined, additional funds may become available due to such circumstances as withdrawn applications or reduction in an applicant's student count. An applicant whose award amount increases or decreases more than $5,000 must submit a revised budget prior to receiving its grant award but will not need to re-certify its application. If an applicant's award amount increases or decreases by less than $5,000, a budget update is not

required. For an applicant that receives an increased award amount following submission of its original budget, the applicant must allocate the increased amount only to previously approved budget categories;

(11) As required by section 427 of the General Education Provisions Act (GEPA), describe the steps the applicant proposes to take to ensure equitable access to, and participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age; and

(12) If needed, provide additional comments to assist OIE in the review of the application.

Registration for Formula Grant EASIE: Current, former, and new applicants interested in submitting a Formula Grant EASIE application must register for Formula Grant EASIE. Prior to the opening of EASIE Part I, EDFacts PSC will send a broadcast to prior year grantees and new prospective applicants that have contacted EDFacts PSC and registered for EASIE. All recipients who receive the EDFacts PSC's broadcast will be asked to respond to EDFacts PSC directly to confirm their intent to register and make updates to the registration information. Entities are strongly encouraged to respond to the email to ensure that any potential registration issues are resolved prior to the deadline for the submission of an application. Entities that do not have an active registration or are new applicants should contact the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT** to register any time before the EASIE Part I application deadline date. Registration *does not* serve as the entity's grant application. For assistance registering, contact the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Certification for Formula Grant EASIE: The applicant's authorized representative, who must be legally authorized by the applicant to approve the application, must certify EASIE Part I and Part II. Only users with the role type ''managing user'' or ''certifying official user'' in the EASIE system can certify an application. Each applicant should identify at least three system users, one for each of the following: Project director, authorized representative, and another party designated to answer questions in the event the project director is unavailable. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the EASIE system because—

- You do not have access to the internet; or
- You do not have the capacity to upload documents to the EASIE system; and
- No later than two weeks before the application deadline date for EASIE Part I (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail, fax, or email a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date. If you email the written statement, it must be sent no later than two weeks before the application deadline date to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Address and mail or fax your statement to: Paulette Davis, U.S. Department of Education, Office of Indian Education, 400 Maryland Avenue SW, Room 3W227, Washington, DC 20202–6335. FAX: (202) 205–0606.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline dates for both EASIE Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW, Room 3W227, Washington, DC 20202–6335.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date for EASIE Part I or Part II.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline dates for both EASIE Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW, Room 3W227, Washington, DC 20202–6335.

The program office accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The program office will mail you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should contact the program office at (202) 260–3774.

V. Grant Administration Information

1. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in

appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice. We reference the regulations outlining the terms and conditions of a grant in the *Applicable Regulations* section of this notice.

3. *Reporting:* (a) If you apply for a grant under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit an annual performance report (APR) using the EDFacts System Portal at *https://eden.ed.gov,* including financial information, as directed by the Secretary, within 90 days after the close of the grant year. The APR is located within the EDFacts System Portal under the EASIE Part III tab. Prior to the system being open to users, grantees will receive an email from the EDFacts PSC identifying the date that the APR will be available to grantees and the deadline for its transmission.

(c) Under 34 CFR 75.250(b), the Secretary may approve a data collection period for a grant for a period of up to 72 months after the end of the project period and may provide a grantee with additional funding for the sole purpose of collecting, analyzing, and reporting performance measurement data regarding the project.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Formula Grants program: (1) The percentage of AI/AN students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AI/AN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of AI/AN students in grades three through eight meeting State achievement standards by scoring at or above the proficient level in reading and mathematics on State assessments; (4) the difference between the percentage of AI/AN students in grades three through eight at or above the proficient level in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of AI/AN students who graduate from high school as measured by the four-year adjusted cohort graduation rate; and (6) the percentage of funds used by grantees prior to award close-out.

5. *Integrity and Performance System:* If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 29, 2018.

Jason Botel,

Principal Deputy Assistant Secretary Delegated the Authority to Perform the Functions and Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2018–02023 Filed 1–31–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP17–1015–000.

Applicants: XTO Energy Inc., et al.

Description: Joint Petition of XTO Energy Inc., *et al.,* for Amendment to, and Extension of Limited Waiver Request and Request for Expedited Action.

Filed Date: 1/23/18.

Accession Number: 20180123–5207.

Comments Due: 5 p.m. ET 1/29/18.

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: January 26, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01977 Filed 1–31–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–713–000]

CA Flats Solar 150, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CA Flats Solar 150, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 26, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01975 Filed 1–31–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9973–32–0A]

Farm, Ranch, and Rural Communities Advisory Committee (FRRCC); Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Farm, Ranch, and Rural Communities Advisory Committee (FRRCC) is in the public interest and is necessary in connection with the performance of EPA's duties. Accordingly, the FRRCC will be renewed for an additional two-year period. The purpose of the FRRCC is to provide advice and recommendations to the EPA Administrator on environmental issues and policies that are of importance to agriculture and rural communities. Inquiries may be directed to Hema Subramanian, Designated Federal Officer for FRRCC, U.S. EPA, (Mail Code 1 101A), 1200 Pennsylvania Avenue NW, Washington, DC 20460, or *subramanian.hema@epa.gov.*

Dated: January 17, 2018.

Jeffrey Sands,

Senior Advisor to the Administrator for Agriculture.

[FR Doc. 2018–02050 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0265; FRL–9972–01]

Dicloran (DCNA); Amendments To Terminate Uses for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's final order for the amendments to terminate uses, voluntarily requested by the registrant and accepted by the Agency, of products containing dicloran (DCNA), pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This termination order follows a March 16, 2016 **Federal Register** Notice of Receipt of Request from the registrant listed in Table 2 of Unit III. to voluntarily amend product registrations to terminate DCNA use on certain products. The Agency hereby issues in this notice a termination order granting the requested amendments to terminate DCNA use on certain products. Any distribution, sale, or use of the products subject to this termination order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The amendments are valid February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Patricia Biggio, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0547; fax number: (703) 308–7070; email address: *biggio.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0265. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday

through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Background

This termination order follows a **Federal Register** of March 16, 2016 (81 FR 14109) (FRL–9941–37), Notice of Receipt of Request from the registrant listed in Table 2 of Unit III. to voluntarily amend product registrations to terminate DCNA use on apricot, chrysanthemum, conifer, gladiolus, grape, greenhouse cucumber, greenhouse lettuce, greenhouse rhubarb, greenhouse tomato, nectarine, peach, plum/prune, rose, and sweet cherry. These are not the last products containing this pesticide registered for use in the United States (U.S.). In the March 16, 2016 notice, EPA indicated that it would issue an order implementing the amendments to terminate uses, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrant withdrew their request. The Agency received seven comments on the notice; none of which would affect the Agency's action. The Agency hereby issues in this notice a termination order granting the requested amendments to terminate these DCNA uses.

III. What action is the Agency taking?

This notice announces the amendments to delete uses, as requested by the sole registrant, of products registered under section 3 of FIFRA. These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—DCNA PRODUCT REGISTRATION AMENDMENTS TO DELETE USES

EPA registration No.	Product name	Uses deleted
10163–189	Botran 75–W Fungicide	apricots, chrysanthemums, conifers, gladiolus, grapes, greenhouse cucumbers, greenhouse lettuce, greenhouse rhubarb, greenhouse tomato, nectarines, peaches, plums/prunes, roses, and sweet cherries.
10163–195	Botran Technical	
10163–226	Botran 5F Fungicide	
10163–329	Botran P 5F Fungicide.	

Table 2 of this unit includes the name and address of record for the registrant of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 2—REGISTRANT OF AMENDED PRODUCTS

EPA company No.	Company name and address
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366–5569.

IV. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received seven comments in response to the **Federal Register** of March 16, 2016 (81 FR 14109), notice announcing the Agency's receipt of the request to voluntarily amend product registrations to delete DCNA uses for products listed in Table 1 of Unit III.

Six of the seven comments were from growers outside of the U.S. that supported the continued use of DCNA. In addition, the Agency also received a single comment from the registrant (Gowan) which proposed the conversion of dicloran crop residue tolerances to import tolerances based on conclusions from previous DCNA risk assessments and Pesticide Data Program (PDP) data from 2004 to 2014. The Agency has reviewed these comments and the Agency's formal response is available at regulation.gov in the DCNA reregistration docket EPA–HQ–OPP–2005–0265.

Per the Agency's response, the 2006 dietary risk assessment concluded that dietary exposure from all currently registered crops does not exceed the Agency's level of concern. In addition, following a review of available monitoring data, EPA concluded that the small number of samples with detectable residues in monitoring data and the low residue levels found in those samples support Gowan's claim that imported commodities are not likely to pose risks of concern. The monitoring data also supports Gowan's assertion that the subject commodities will not likely be contaminated with residue levels over tolerance. Therefore, the Agency does not expect that the use of DCNA on the subject commodities will create a risk of concern. As such, the Agency supports retaining the DCNA tolerances for import of these commodities to avoid potential trade barriers with countries that use Codex Maximum Residue Levels (MRLs) or have DCNA tolerances established for these commodities, and will convert the existing tolerances to import tolerances in a separate action.

V. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendments to terminate uses of DCNA for registrations identified in Table 1 of Unit III. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit III. are amended to terminate use on apricots, chrysanthemums, conifers, gladiolus, grapes, greenhouse cucumbers, greenhouse lettuce, greenhouse rhubarb, greenhouse tomato, nectarines, peaches, plums/prunes, roses, and sweet cherries. The effective date of the amendments to terminate affected uses that are subject of this notice is February 1, 2018. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit III. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VII. will be a violation of FIFRA.

VI. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of March 16, 2016 (81 FR 14109) (FRL–9941–37). The comment period closed on September 12, 2016.

VII. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and

which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

The registrant may continue to sell and distribute existing stocks of products listed in Table 1 until February 1, 2019, which is 1 year after publication of this termination order in the **Federal Register**. Thereafter, the registrant is prohibited from selling or distributing products listed in Table 1 of Unit III. that contains directions for use on the deleted uses, except for export in accordance with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products listed in Table 1 of Unit III until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the deleted uses.

Authority: 7 U.S.C. 136 *et. seq.*

Dated: January 10, 2018.

Yu-Ting Guilaran,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2018–02027 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9973–33—Region 9]

Clean Air Act Operating Permit Program; Petitions for Objection to Proposed Permits for Linn Operating, Inc.—Fairfield Lease and Ethyl D Lease, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final Order on petitions to object to air permit.

SUMMARY: This document announces that the Environmental Protection Agency (EPA) Administrator has responded to two citizen petitions asking the EPA to object to the proposed issuance of two Authority to Construct/Certificate of Conformity documents (Permits) issued by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). Specifically, the Administrator has denied the June 24, 2015 petitions (Petitions) submitted by the Climate Change Law Foundation to object to SJVUAPCD's proposed issuance of the Permits for the Linn Operating, Inc.—Fairfield and Ethyl D Leases located in Kern County, California.

ADDRESSES: You may review copies of the final Order, the Petitions, and other supporting information at U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, Petitions, and other supporting information. You may view the hard copies Monday through Friday, from 9 a.m. to 3 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Order is available electronically at: *https://www.epa.gov/sites/production/files/2017-10/documents/linn_fairfield_and_ethyl_order_10-6-17.pdf.*

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, (415) 972–3534, *yannayon.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: SJVUAPCD Rule 2201 affords the EPA a 45-day period to review and object to, as appropriate, a proposed permit. Rule 2201 § 5.9.1. If the EPA does not object, Rule 2201 allows any person to petition the EPA, within 60 days, to object to the proposed permit. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period, or the grounds for the issue arose after this period.

The EPA received the Petitions dated June 24, 2015, requesting that the EPA object to the proposed issuance of the Permits to Linn Operating, Inc. for the addition of three new gas-fired steam generators on its Fairfield lease, and one new gas-fired steam generator on its Ethyl D lease, both located in Kern County, California. The substantive claims raised in the two Petitions were essentially identical. Therefore, the EPA responded to both Petitions in a single order. In summary, the Petitions claimed that certain emission reductions had not been included in an EPA-approved attainment plan and thus could not be used, and that certain emission reduction credits used in the permitting process were invalid.

On October 6, 2017, the Administrator issued an order denying the Petitions. The EPA's rationale for denying the claims raised in the petitions are described in the Order.

Dated: January 16, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–02049 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9973–34—Region 2]

Proposed CERCLA Cost Recovery Settlement for the Facet Enterprises, Inc. Superfund Site, Elmira Heights, Chemung County, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with Motor Components, LLC (''Motor Components'') and Honeywell International, Inc. (''Honeywell'') (collectively, ''Settling Parties'') for the Facet Enterprises, Inc. Superfund Site (''Site''), located in Elmira Heights, Chemung County, New York.

DATES: Comments must be submitted on or before March 5, 2018.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Facet Enterprises, Inc. Superfund Site, Elmira Heights, Chemung County, New York, Index No. II–CERCLA–02–2017–2037. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Lauren Charney, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. email: *charney.lauren@epa.gov.* Telephone: 212–637–3181.

SUPPLEMENTARY INFORMATION: The Settling Parties agree to reimburse EPA for past response costs paid at or in connection with the Site as set forth: (a) Within 30 days of the effective date, Honeywell shall pay $550,000, plus interest accrued, and (b) Motor Components shall pay $1,300,000, plus accrued interest in up to four

installments over a period not to exceed three years from the effective date.

The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Party/Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the response costs related to the work at the Site enumerated in the settlement agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: January 3, 2018.

Walter Mugdan,

Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2018–02046 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9973–47–OA]

Notification of a Public Teleconference of the Science Advisory Board Chemical Assessment Advisory Committee Augmented for the Review of EPA's Draft Ethyl Tertiary Butyl Ether (ETBE) and tert-Butyl Alcohol (tert-butanol; tBA) Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Chemical Assessment Advisory Committee augmented for the review of two EPA draft assessments; Toxicological Review for Ethyl Tertiary Butyl Ether (ETBE) (*External Review Draft, dated June 2017*); and Toxicological Review of tert-Butyl Alcohol (tert-butanol or tBA) (*External Review Draft, dated June 2017*) (CAAC augmented for ETBE/tBA Panel or Panel). The Panel will meet to discuss its draft peer review report regarding the two EPA draft assessments named above.

DATES: The public teleconference will be held on two dates: Thursday, March 22, 2018, from 9 a.m. to 12 p.m. (Eastern time) and Tuesday, March 27, 2018, from 2 p.m. to 4 p.m. (Eastern time).

ADDRESSES: The public teleconference will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning this meeting notice may contact Dr. Shaunta Hill-Hammond, Designated Federal Officer (DFO), via phone at (202) 564–3343, or email at *hill-hammond.shaunta@epa.gov.* General information about the SAB, as well as updates concerning the meeting announced in this notice, may be found on the EPA website at *http://www.epa.gov/sab.*

Technical Contact for EPA's Draft Reports: For information concerning the EPA draft assessments, please contact James Avery, phone (703) 347–8668 or via email at *avery.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the scientific and technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB CAAC augmented for ETBE and tBA Panel will hold a public teleconference to discuss its draft report regarding the EPA's draft assessments; *Toxicological Review for Ethyl Tertiary Butyl Ether (ETBE) (External Review Draft, dated June 2017);* and *Toxicological Review of tert-Butyl Alcohol (tert-butanol or tBA)* (*External Review Draft, dated June 2017*)). The Panel will provide their advice to the Administrator through the chartered SAB.

EPA's Office of Research and Development (ORD) requested that the SAB conduct a peer review of the two EPA draft assessments. The EPA SAB Staff Office augmented the SAB CAAC with subject matter experts, to provide advice to the Administrator through the chartered SAB regarding these assessments. The CAAC augmented for ETBE/tBA Panel convened a public face-to-face meeting on August 15–17, 2017, to deliberate on the peer review charge questions. The Panel will meet via a public teleconference to discuss its draft peer review report and to hear and consider public comments. The SAB CAAC augmented for ETBE and tBA Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Availability of Meeting Materials: Prior to the meeting(s), the Panel's draft report, meeting agenda and other supporting materials (if applicable) will be accessible on the meeting page corresponding to each chemical assessment on the SAB website (*http://www.epa.gov/sab*).

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the EPA's charge, meeting materials, or the group providing advice. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instructions below to submit comments.

Oral Statements: In general, individuals or groups requesting to make an oral presentation will be limited to three minutes during a public teleconference. Interested parties wishing to provide comments should contact Dr. Hill-Hammond (preferably via email), at the contact information noted above by March 14, 2018, to be placed on the list of public speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by SAB members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by March 14, 2018. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Hill-Hammond at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated: January 23, 2018.

Khanna Johnston,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2018–02058 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9973–36—Region 9]

Clean Air Act Operating Permit Program; Petition for Objection to Proposed Permit for Alon USA—Bakersfield Refinery, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final Order on petition to object to air permit.

SUMMARY: This document announces that the Environmental Protection Agency (EPA) Administrator has responded to a citizen petition asking the EPA to object to the proposed issuance of an Authority to Construct/Certificate of Conformity (Permit) issued by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). Specifically, on December 21, 2016, the then Administrator granted Part V of the December 16, 2014 petition (Petition) and on July 28, 2017, the current Administrator denied Parts II and III of the Petition submitted by the Association of Irritated Residents, Center for Biological Diversity, and the Sierra Club to object to SJVUAPCD's proposed issuance of the Permit for the Alon USA—Bakersfield Refinery located in Kern County, California.

ADDRESSES: You may review copies of the final Orders, the Petition, and other supporting information at U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Orders, the Petition, and other supporting information. You may view the hard copies Monday through Friday, from 9 a.m. to 3 p.m., excluding federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Orders for the Alon USA—Bakersfield Refinery are available electronically at: *https://www.epa.gov/sites/production/files/2017-01/documents/alon_response2014.pdf* (Part V), and *https://www.epa.gov/sites/production/files/2017-08/documents/alon_2nd_response2014.pdf* (Parts II and III).

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, (415) 972–3534, *yannayon.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: SJVUAPCD Rule 2201 affords the EPA a 45-day period to review and object to, as appropriate, a proposed permit. Rule 2201 § 5.9.1. If the EPA does not object, Rule 2201 allows any person to petition the EPA, within 60 days, to object to the proposed permit. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period, or the grounds for the issue arose after this period.

The EPA received the Petition dated December 16, 2014, requesting that the EPA object to the proposed issuance of the Permit to Alon USA—Bakersfield Refining, for modifications to its petroleum products refinery and gasoline terminal, located in Kern County, California. The Petition contained five different bases for its request for an objection. Pursuant to the terms of a settlement agreement, noticed on October 21, 2016 (81 FR 72804), the EPA issued a final Order responding to the claims made in Part V of the Petition on December 21, 2016, and a second Order responding to the claims made in Parts II and III of the Petition on July 28, 2017.[1] Part V of the Petition requested that the EPA object to the Permit because it allegedly relies on invalid emission reduction credits. Parts II and III of the Petition requested that the EPA object to the Permit because the emissions baseline and the assumptions used to calculate project emissions were allegedly inaccurate.

On December 21, 2016, the then Administrator issued an order granting Part V of the Petition. On March 16, 2017, SJVUAPCD responded to the December 21, 2016 objection. On July 28, 2017, the current Administrator issued an order denying Parts II and III of the Petition. EPA's rationale for granting the Petition in part and denying the Petition in part are described in the Orders.

Dated: January 16, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–02051 Filed 1–31–18; 8:45 am]

BILLING CODE 6560–50–P

[1] On August 8, 2017, pursuant to the settlement agreement, the Petitioners withdrew Parts I and IV of the Petition. See *https://www.epa.gov/sites/production/files/2017-08/documents/alon_withdrawal2014.pdf.*

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act Meeting

AGENCY: Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 8, 2018, from 9:00 a.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056, *aultmand@fca.gov.*

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available) and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

• January 11, 2018

B. Report

• Cost of Production Trends for Grain and Soybean Producers

Closed Session *

• Office of Secondary Market Oversight Periodic Report

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: January 30, 2018.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2018–02097 Filed 1–30–18; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Tuesday, January 30, 2018

January 23, 2018.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, January 30, 2018 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW, Washington, DC.

Item No.	Bureau	Subject
1	PUBLIC SAFETY & HOMELAND SECURITY.	*Presentation:* The Commission will receive a preliminary report from the Public Safety & Homeland Security Bureau on its investigation into the false emergency alert that occurred in Hawaii on January 13, 2018.
2	PUBLIC SAFETY & HOMELAND SECURITY.	*Title:* Wireless Emergency Alerts (PS Docket No. 15–91); Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System (PS Docket No. 15–94). *Summary:* The Commission will consider a Second Report and Order and Second Order on Reconsideration to enhance the effectiveness of Wireless Emergency Alerts, including improving the geographic accuracy of these alerts.
3	WIRELINE COMPETITION	*Title:* Connect America Fund (WC Docket No. 10–90); ETC Annual Reports and Certifications (WC Docket No. 14–58); Rural Broadband Experiments (WC Docket No. 14–259); Connect America Fund Phase II Auction (AU Docket No. 17–182). *Summary:* The Commission will consider an Order and Order on Reconsideration addressing the remaining issues raised by parties challenging the Commission's orders implementing the Connect America Phase II auction (Auction 903), in which service providers will compete to receive support of up to $1.98 billion to offer voice and broadband service in unserved high-cost areas.
4	WIRELINE COMPETITION AND WIRELESS TELE-COMMUNICATIONS.	*Title:* Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903; Connect America Fund Phase II Auction (AU Docket No. 17–182); Connect America Fund (WC Docket No. 10–90). *Summary:* The Commission will consider a Public Notice establishing procedures for the Connect America Fund Phase II auction, which will award up to $1.98 billion over 10 years to service providers that commit to offer voice and broadband services to fixed locations in unserved high-cost areas.
5	WIRELINE COMPETITION AND OFFICE OF MANAGING DIRECTORY.	*Title:* Establishment of the Office of Economics and Analytics (MD Docket No. 18–3). *Summary:* The Commission will consider an Order to establish an Office of Economics and Analytics.
6	MEDIA	*Title:* Amendment of Section 73.3613 of the Commission's Rules Regarding Filing of Contracts (MB Docket No. 18–4); Modernization of Media Regulation Initiative (MB Docket No. 17–105). *Summary:* The Commission will consider a Notice of Proposed Rulemaking proposing to eliminate the requirement that broadcast licensees and permittees routinely submit paper copies of contracts and other documents to the FCC as specified in Section 73.3613 of the Commission's rules.
7	MEDIA	*Title:* Modernization of Media Regulation Initiative (MB Docket No. 17–105); Amendment of Parts 27, 54, 73, 74, and 76 of the Commission's Rules to Delete Rules Made Obsolete by the Digital Television Transition. *Summary:* The Commission will consider an Order deleting rules made obsolete by the Digital TV transition.
8	ENFORCEMENT	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.

* * * * *

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting

live via the internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2018–02029 Filed 1–31–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, February 6, 2018 at 10:00 a.m.

PLACE: 999 E Street NW, Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer Telephone: (202) 694–1220

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2018–02120 Filed 1–30–18; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

[Petition No. P4–16]

Petition of the Coalition for Fair Port Practices for Rulemaking; Notice of Accessibility and Extension of Time

On January 23, 2018, the Commission resumed normal operations and offices are now open and accessible. Time has been extended for this proceeding. Replies and any further submissions to the record are now due February 1, 2018.

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2018–01982 Filed 1–31–18; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP); Notice of Charter Amendment; Correction

Notice is hereby given of a change in the filing date of the Advisory Committee on Immunization Practices (ACIP); Notice of Charter Amendment which was published in the **Federal Register** on December 28, 2018 Volume 82, Number 248, page 61573.

The amended filing date should read as follows: November 9, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, CDC, NCIRD, email *ACIP@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–01969 Filed 1–31–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Implementation Grants to Develop a Model Intervention for Youth/Young Adults with Child Welfare Involvement at Risk of Homelessness: Phase II—Extension OMB No.: 0970–0445.

Description: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) intends to collect data for an evaluation of the initiative, Implementation Grants to Develop a Model Intervention for Youth/Young Adults with Child Welfare Involvement at Risk of Homelessness: Phase II. This builds on the previously approved ''Planning Grants to Develop a Model Intervention for Youth/Young Adults with Child Welfare Involvement at Risk of Homelessness'' (Phase I). The Phase II data collection described in this Notice was approved by the Office of Management and Budget in July 2017. This request is for a time extension for data collection under OMB #0970–0445. There are no changes to the previously approved information collection. Due to delays, data collection has not begun and will need to extend beyond the current expiration date of July 2018. Grantees are receiving an additional year to conduct their work. To capture data at a similar point in the development of their efforts, data collection will be delayed.

Phase II is an initiative, funded by the Children's Bureau (CB) within ACF, that will support implementation grants for interventions designed to intervene with youth who have experienced time in foster care and are most likely to have a challenging transition into adulthood, including homelessness and unstable housing experiences. CB awarded six implementation grants (Phase II) in September 2015.

During the implementation phase, organizations will conduct a range of activities to fine-tune their comprehensive service model, determine whether their model is being implemented as intended, and develop plans to evaluate the model under a potential future funding opportunity (Phase III). During Phase II, ACF will engage a contractor to: Conduct a cross-site process evaluation. Data collected for the process evaluation will be used to assess grantees' organizational capacity to implement and evaluate the model interventions and to monitor each grantee's progress toward achieving the goals of the implementation period.

Data for the process evaluation will be collected through: Interviews during site visits.

Respondents: Grantee agency directors and staff; partner agency directors and staff. Partner agencies may vary by site, but are expected to include child welfare, mental health, and youth housing/homelessness agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Total/annual burden hours
Grantee Site Visit-Semi-Structured Interview Topic Guide	60	1	1.5	90
Estimated Total Annual Burden Hours				90

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–01987 Filed 1–31–18; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Grants to States for Access and Visitation.

OMB No.: 0970–0204.

Description: On an annual basis, States must provide OCSE with data on programs that the Grants to States for Access and Visitation Program has funded. These program reporting requirements include, but are not limited to, the collection of data on the number of parents served, types of services delivered, program outcomes, client socio- economic data, referrals sources, and other relevant data including the number of noncustodial parents who were able to obtain increased parenting time with their children and how many AV grant program cases were also open IV–D child support cases.

Respondents: State Child Access and Visitation Programs and State and/or local service providers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Online Portal Survey by States and Jurisdictions	54	1	16	864
Survey of local service grantees	296	1	16	4,736

Estimated Total Annual Burden Hours: 5,600.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–01985 Filed 1–31–18; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; Evidence-Based Falls Prevention Program; OMB Control Number, 0985–0039

AGENCY: Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to ACL's Evidence-Based Falls Prevention Program's Proposed Extension with Changes of a Currently Approved Collection.

DATES: Submit written comments on the collection of information by March 5, 2018.

ADDRESSES: Submit written comments on the collection of information by:

(a) *Email to: OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL;

(b) fax to 202–395–5806, Attn: OMB Desk Officer for ACL; or

(c) by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Shannon Skowronski at *shannon.skowronski@acl.hhs.gov* or 202–795–7438.

SUPPLEMENTARY INFORMATION: Under the 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 Evidence-Based Falls Prevention Programs is a cooperative agreement financed through the Prevention and Public Health Fund (PPHF), most recently with FY 2017 PPHF funds. The statutory authority for cooperative agreements under the current program announcement is contained in the Public Health Service Act, 42 U.S.C. 300u–2 (Community Programs) and 300u–3 (Information Programs); and Consolidated Appropriations Act, 2017, Public Law 115–31, Title II; and the Patient Protection and Affordable Care Act, 42 U.S.C. 300u–11 (Prevention and Public Health Fund).

The Evidence-Based Falls Prevention Programs support a national resource center and award competitive grants to implement evidence-based community programs that have been proven to reduce the incidence of falls for older adults. The programs also identify sustainable funding mechanisms for these programs via the national resource center, promote the importance of falls prevention strategies, and provide public education about the risks of falls and ways to prevent them.

OMB approval of the existing set of Falls Prevention data collection tools (OMB Control Number, 0985–0039) expires on 01/31/2018. This data collection continues to be necessary for monitoring program operations and outcomes. ACL/AoA proposes to use the following tools: (1) Semi-annual performance reports to monitor grantee progress; (2) a Host Organization Data form to record the location of agencies that sponsor programs that will allow mapping of the delivery infrastructure; and (3) a set of tools used to collect information at each program completed by the program leaders (Program Information Cover Sheet and Attendance Log), a Participant Information Form completed by each participant, and a Post Program Survey to be completed by a random sample of participants. ACL/AoA intends to continue using an online data entry system for the program and participant survey data.

Comments in Response to the 60-Day Federal Register Notice

As required by 5 CFR 1320.8(d), a 60-Day notice was published in the **Federal Register** on October 3, 3017, Volume 82, Number 190, page 46064. Four emails were received with comments. Based on the comments, some minor modifications were made to the proposed survey instruments. In addition to the public comments, feedback on the current forms was sought from the following:

- ACL Performance and Evaluation subject matter experts
- CDC Injury Prevention Center subject matter experts
- National Falls Prevention Resource Center and falls prevention subject matter experts
- Two grantee focus groups (with fewer than 9 participants combined)

Based on this collective feedback, the following modifications to the currently approved forms are being proposed:

- On the Participant Information Form:

1. Question #8 on currently approved and proposed Participant Information Form: Additional chronic conditions have been added to the list of options: Cancer; high blood pressure/hypertension; osteoporosis; and Parkinson's Disease.

2. Question #8 on currently approved and proposed Participant Information Form: None (no chronic conditions) has been removed from the list of options.

3. Question #11 on currently approved and proposed Participant Information Form: Two sub-questions have been added to assess the:

- Frequency of Falls (6b)
- Impact of Falls (6c)

4. Question #15 on the Participant Information Form has been added to examine home modifications

5. Question #16 on the Participant Information Form has been added to examine activity level

On the Post Program Survey:

1. Question #2 on the currently approved and proposed Post Program Survey: Two sub-questions have been added to assess the:

- Frequency of Falls (6b)
- Impact of Falls (6c)

2. Question #4 on the currently approved Post Program Survey (''Has this program reduced your fear of falling?'') has been *removed.*

3. Question #7 on currently approved Post Program Survey and Question #6 on the proposed form: *Removed* ''I plan to continue exercising'' from the list of options. Activity level is now addressed in Question #9.

4. Question #8 on currently approved Post Program Survey and Question #7 on the proposed form: *Removed* ''Did exercises I learned in this program at home'' from the list of options. Activity level is now addressed in Question #9 on the revised form.

5. Question #8 on currently approved Post Program Survey and Question #7 on the proposed form: *Removed* ''Made changes in my home to reduce my risk of falling (for example, secured rugs or improved lighting)'' from the list of options. Home modifications are now addressed in Question #8 in the revised form.

6. Question #8 on the Participant Information Form has been added to examine home modifications

7. Question #9 on the Participant Information Form has been added to examine activity level

On the Program Information Cover Sheet:

1. Question #6 has been revised to improve clarity to read ''Session 0/Introductory Session''.

2. Question #7 has been revised to change wording to ''Name of program offered.''

Estimated Annualized Burden Hours

The proposed Falls Prevention Data Collection Tools can be found at ACL's Website at: *https://www.acl.gov/about-acl/public-input.*

The total estimated burden is 4,345 hours per year. ACL/AoA estimates the burden of this collection of information as 288 hours for project staff, 1,435 hours for local agency staff, and 2,622 hours for individuals.

Type of respondent	Form name	Estimated number of respondents	Number of responses per respondent	Average time per response (in hours)	Total burden hours (annual)
Project staff	Semi-annual Performance Report.	18	Twice a year	8	288
Local agency leaders	Program Information Cover Sheet/Participant Information Form/Attendance Log/Post Program Survey.	700 leaders	Twice a year (one set per program).	.50	700
Local data entry staff		36 data entry staff	Once per program × 1,400 programs.	.50	700
Local organization staff and local database entry staff.	Host Organization Data Form.	700 staff	1	.05	35
Program participants	Participant Information Form.	16,390	1	.10	1,639
Program participants	Post Program Survey	9,834	1	.10	983
Total Burden Hours					4,345

Dated: January 26, 2018.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2018–02000 Filed 1–31–18; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0001]

Best Practices in Modeling and Simulation for Oncology Products; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration's (FDA, the Agency, or we) Center for Drug Evaluation and Research (CDER), in co-sponsorship with the International Society of Pharmacometrics (ISoP), is announcing a public workshop entitled ''Best Practices in Modeling and Simulation for Oncology Products.'' The purpose of the meeting is to discuss ''best practices'' in integrating pharmacokinetic, pharmacodynamic, efficacy, and safety data into models to best inform oncology drug development, evaluate disease- and mechanism-specific early endpoints to predict long-term efficacy, and discuss potential regulatory implications of model-informed decisions in drug development. This workshop is also being conducted to satisfy one of FDA's performance goals included in the sixth reauthorization of the Prescription Drug User Fee Act (PDUFA VI), part of the FDA Reauthorization Act of 2017 (FDARA), to hold a series of workshops related to model-informed drug development (MIDD).

DATES: The public workshop will be held on February 1, 2018, from 8 a.m. to 5 p.m., Eastern Time. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503, B and C), Silver Spring, MD 20993–0002. Entrance for public workshop participants (non-FDA employees) is through Building 1 where routine security procedures will be performed. For parking and security information, please refer to: *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Jeannette Dinin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2108, Silver Spring, MD 20993–0002, 240–402–4978, email: *Jeannette.Dinin@fda.hhs.gov*; or Yvonne Knight, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2142, Silver Spring, MD 20993–0002, 301–796–2133, email: *Yvonne.Knight@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under FDARA, FDA agreed, in accordance with section I of the PDUFA VI Performance Goals, Ensuring the Effectiveness of the Human Drug Review, part J, Enhancing Regulatory Decision Tools to Support Drug Development and Review, to convene a series of workshops to identify best practices for MIDD (*https://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM511438.pdf*). FDA is conducting this workshop as part of the MIDD workshop series.

Over the past few decades, there has been extensive investment in oncology drug discovery and development. Despite greater understanding of disease biology and drug mechanisms of action, further progress in model-informed strategies is needed to continue advancements in oncology drug development. Innovations in clinical trial design utilizing more informative endpoints could help bring more effective treatment options to cancer patients faster by accelerating development of effective new drugs and reducing failure rates in expensive late-phase development.

As more effective and complex combination strategies and novel targets for cancer treatment evolve, exploring more informative and predictive endpoints to assess treatment response

(*e.g.,* response evaluation criteria in solid tumors-based endpoints (RECIST)) has become an active area of research. Alternative metrics that require shorter periods of observation or provide more precise assessment of treatment effects could lead to more rapid completion of clinical trials and require fewer patients. Promising among these alternative metrics are model-based metrics, such as those based on longitudinal continuous tumor size measurements. Additionally, model-informed approaches can help satisfy a need to optimize dosing regimens for patients. Investigations to refine dosing regimens often occur after new drug approval and/or are driven by pharmacometric modeling approaches. There is growing interest in using model-informed approaches to help balance the risks and benefits of oncology products by identifying optimal dosing regimens, and broad stakeholder engagement and discussion around this topic can be beneficial.

II. Objectives

The objectives of the workshop are to:

1. Discuss ''best practices'' in integrating human pharmacokinetic, pharmacodynamic, efficacy, and safety data into models that best inform oncology drug development.

2. Describe novel imaging techniques and diagnostic and predictive biomarkers that may be utilized in oncology drug development.

3. Describe disease- and mechanism-specific early endpoints to predict long-term efficacy.

4. Evaluate the potential to shift from traditional RECIST-based endpoints such as Overall Response Rate (ORR) and Progression Free Survival (PFS) to modified RECIST approaches (*e.g.,* imRECIST for immunotherapies) as well as to other (model-based) tumor kinetic metrics to support early decision making in Phase 1/2 as well as in confirmatory trials.

5. Discuss potential regulatory implications of model-informed decisions in drug development, including, model-based target identification, dose/exposure justification based on preclinical evidence, dose selection for first-in-human trials, quality by design, early clinical study design, dose finding/titration, confirmatory trials, product labeling, and post-marketing studies.

A detailed agenda will be posted on the following website in advance of the workshop: *https://www.fda.gov/downloads/Drugs/NewsEvents/UCM589458.pdf.*

III. Registration and Accommodations

Registration: Persons interested in attending this public workshop must register online by January 31, 2018, at *https://fdaoce.formstack.com/forms/isop.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone number.

Registration is free and based on space availability, with priority given to early registrants. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 8 a.m.

If you need special accommodations due to a disability, please contact Yvonne Knight (see **FOR FURTHER INFORMATION CONTACT**) no later than January 24, 2018.

Streaming Webcast of the Public Workshop: The meeting will also be webcast. A live webcast of this workshop will be available at *https://collaboration.fda.gov/fdaisop/* on the day of the workshop. If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://FDAOCE.formstack.com/forms/isop.* It may be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: January 29, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–01992 Filed 1–31–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2016–E–1234 and FDA–2016–E–1257]

Determination of Regulatory Review Period for Purposes of Patent Extension; CORLANOR

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for CORLANOR and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by April 2, 2018. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by July 31, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 2, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of April 2, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2016–E–1234 and FDA–2016–E–1257 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; CORLANOR.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product CORLANOR (ivabradine hydrochloride). CORLANOR is indicated to reduce the risk of hospitalization for worsening heart failure in patients with stable, symptomatic chronic heart failure with left ventricular ejection fraction ≤ 35% who are in sinus rhythm with resting heart rate ≥ 70 beats per minute and either are on maximally tolerated doses of beta-blockers or have a contraindication to beta-blocker use. Subsequent to this approval, the USPTO received a patent term restoration application for CORLANOR (U.S. Patent Nos. 7,879,842 and 7,867,996) from Les Laboratoires Servier, and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated July 28, 2016, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of CORLANOR represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for CORLANOR is 293 days. Of this time, 0 days occurred during the testing phase of the regulatory review period, while 293 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* No exemption claimed. FDA has verified the Les Laboratoires Servier claim that they did not file an investigational new drug application (IND) with FDA.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* June 27, 2014. FDA has verified the applicant's claim that the new drug application (NDA) for CORLANOR (NDA 206143) was initially submitted on June 27, 2014.

3. *The date the application was approved:* April 15, 2015. FDA has verified the applicant's claim that NDA 206143 was approved on April 15, 2015.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 292 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket Nos. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: January 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–01979 Filed 1–31–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS (the Secretary) is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the program in general, contact Lisa L. Reyes, Acting Clerk, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, MD 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the table) set forth at 42 CFR 100.3. This table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111, the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on December 1, 2017, through December 31, 2017. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, MD 20857. The Court's caption (*Petitioner's Name* v. *Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to

information required for purposes of carrying out the program.

Dated: January 26, 2018.

George Sigounas,

Administrator.

List of Petitions Filed

1. Janece Dix, Gibsonton, Florida, Court of Federal Claims No: 17–1859V
2. Constance Crabtree, Portland, Oregon, Court of Federal Claims No: 17–1860V
3. Norval Nichols, Washington, District of Columbia, Court of Federal Claims No: 17–1861V
4. Rachelle Gucwa on behalf of B. C., Tavernier, Florida, Court of Federal Claims No: 17–1862V
5. Sharla Bafia, Washington, District of Columbia, Court of Federal Claims No: 17–1863V
6. Gary Koslica, Kenosha, Wisconsin, Court of Federal Claims No: 17–1864V
7. Tiffany Twofoot, Nashua, New Hampshire, Court of Federal Claims No: 17–1866V
8. Lauren Wilkins, Pleasant Grove, Utah, Court of Federal Claims No: 17–1867V
9. Stephanie Fiorello and Anthony Fiorello on behalf of R. F., Westfield, New Jersey, Court of Federal Claims No: 17–1869V
10. Sara Zutter, Brooklyn, New York, Court of Federal Claims No: 17–1872V
11. Bailey McCammon, Avon, Indiana, Court of Federal Claims No: 17–1873V
12. Kristoff Hendrickson, Saint Louis Park, Minnesota, Court of Federal Claims No: 17–1878V
13. Andrew Sanchez-Aldana and Karina Sanchez-Aldana on behalf of V. S. A., San Diego, California, Court of Federal Claims No: 17–1879V
14. Kathy Biser, Streetsboro, Ohio, Court of Federal Claims No: 17–1880V
15. Tarmesha Brown, Phoenix, Arizona, Court of Federal Claims No: 17–1884V
16. Alma Rivera, New York, New York, Court of Federal Claims No: 17–1887V
17. Charles Presley, Cherry Log, Georgia, Court of Federal Claims No: 17–1888V
18. Kathleen M. Lesley, O'Fallon, Missouri, Court of Federal Claims No: 17–1889V
19. Lorrie Jones, D'Iberville, Mississippi, Court of Federal Claims No: 17–1890V
20. Annette Quintana, Montrose, Colorado, Court of Federal Claims No: 17–1891V
21. Keri Anne Bordelon, Hot Springs, Arkansas, Court of Federal Claims No: 17–1892V
22. Janice Romano, Glassboro, New Jersey, Court of Federal Claims No: 17–1893V
23. Elizabeth Watkins, Washington, District of Columbia, Court of Federal Claims No: 17–1894V
24. Gayle Lawless Cox, Los Gatos, California, Court of Federal Claims No: 17–1895V
25. Valerie Newport, Phoenix, Arizona, Court of Federal Claims No: 17–1897V
26. Carla Durham, Pitcairn, Pennsylvania, Court of Federal Claims No: 17–1899V
27. Carol Gutierrez, Des Moines, Iowa, Court of Federal Claims No: 17–1904V
28. Joan Forrest, Holladay, Utah, Court of Federal Claims No: 17–1905V
29. Jeanne Rafferty, Washington, District of Columbia, Court of Federal Claims No: 17–1906V
30. Traci Wilks Jones, High Point, North Carolina, Court of Federal Claims No: 17–1907V
31. Robin Wynne, Boston, Massachusetts, Court of Federal Claims No: 17–1908V
32. Emily Middleton, Mt. Sterling, Kentucky, Court of Federal Claims No: 17–1910V
33. Willie J. Blackmon, Banning, California, Court of Federal Claims No: 17–1911V
34. Reva Sims, Missoula, Montana, Court of Federal Claims No: 17–1913V
35. Darlene Howe, Encinitas, California, Court of Federal Claims No: 17–1914V
36. Angela Apuzzo, Boston, Massachusetts, Court of Federal Claims No: 17–1915V
37. Jonathan Rogan on behalf of T. R., Encinitas, California, Court of Federal Claims No: 17–1916V
38. Sheri Grove, Cedartown, Georgia, Court of Federal Claims No: 17–1917V
39. Douglas Kelly, Rockville, Maryland, Court of Federal Claims No: 17–1918V
40. Tracy McCormick, Lombard, Illinois, Court of Federal Claims No: 17–1919V
41. Gorett Parsloe, Washington, District of Columbia, Court of Federal Claims No: 17–1920V
42. Robert Lermond, Washington, District of Columbia, Court of Federal Claims No: 17–1921V
43. Steven S. Mills on behalf of Meri E. Boatman, Washington, District of Columbia, Court of Federal Claims No: 17–1922V
44. Sandra Williams, Bemidji, Minnesota, Court of Federal Claims No: 17–1925V
45. Amanda Tripp, Lewiston, Maine, Court of Federal Claims No: 17–1926V
46. Kimberly Smyth, Washington, District of Columbia, Court of Federal Claims No: 17–1927V
47. Charyl Wojtaszek, Washington, District of Columbia, Court of Federal Claims No: 17–1928V
48. Katherine J. Rader, Maple Grove, Minnesota, Court of Federal Claims No: 17–1929V
49. Bradford Kaup, Boise, Idaho, Court of Federal Claims No: 17–1930V
50. Deanna Drayton, New York, New York, Court of Federal Claims No: 17–1932V
51. Echo Llewellyn, Washington, District of Columbia, Court of Federal Claims No: 17–1934V
52. James Phillips, Washington, District of Columbia, Court of Federal Claims No: 17–1935V
53. Melody Chesley, Homer, Alaska, Court of Federal Claims No: 17–1936V
54. Cynthia Alexander, Washington, District of Columbia, Court of Federal Claims No: 17–1939V
55. Tracy Oehling, Manassas Park, Virginia, Court of Federal Claims No: 17–1940V
56. Derhyl Middleton, Washington, District of Columbia, Court of Federal Claims No: 17–1942V
57. Opal Waltz, Front Royal, Virginia, Court of Federal Claims No: 17–1943V
58. Judith Mora, Chandler, Arizona, Court of Federal Claims No: 17–1945V
59. Rebecca Crane and Grant Crane on behalf of S. C., Tucson, Arizona, Court of Federal Claims No: 17–1947V
60. Christine Rayner, Cranston, Rhode Island, Court of Federal Claims No: 17–1953V
61. Michael Valese, Toms River, New Jersey, Court of Federal Claims No: 17–1956V
62. Luciana Chaves and Rodrigo Calloni on behalf of A. C., Wheaton, Maryland, Court of Federal Claims No: 17–1957V
63. Mara Corter, Raleigh, North Carolina, Court of Federal Claims No: 17–1961V
64. Penny Cornelius, Port Huron, Michigan, Court of Federal Claims No: 17–1963V
65. Alexandra Morrow, Port Huron, California, Court of Federal Claims No: 17–1964V
66. Joseph Hilo, Lititz, Pennsylvania, Court of Federal Claims No: 17–1965V
67. Darrell Lamont Tatum, Wellesley Hills, Massachusetts, Court of Federal Claims No: 17–1966V
68. Chandra Novak, Howell, Michigan, Court of Federal Claims No: 17–1967V
69. Genarina Decastro, Philadelphia, Pennsylvania, Court of Federal Claims No: 17–1973V
70. Jeana Milton on behalf of Thirza Arlene Bagley, Deceased, Standale, Michigan, Court of Federal Claims No: 17–1974V
71. Katherine Duke, Amarillo, Texas, Court of Federal Claims No: 17–1976V
72. Kenneth Cuevas, Durham, North Carolina, Court of Federal Claims No: 17–1978V
73. Jackie Duty, Dallas, Texas, Court of Federal Claims No: 17–1979V
74. Rhoda Cohen, Howard Beach, New York, Court of Federal Claims No: 17–1980V
75. Angela Avanti, Washington, District of Columbia, Court of Federal Claims No: 17–1986V
76. Faith Hoelzel, Mukwonago, Wisconsin, Court of Federal Claims No: 17–1987V
77. Andrew Bartosiewicz and Lonya Bartosiewicz on behalf of J. B., Pittsburgh, Pennsylvania, Court of Federal Claims No: 17–1988V
78. Doreen Clouser, Marshall, Illinois, Court of Federal Claims No: 17–1989V
79. Janell Ross, Washington, District of Columbia, Court of Federal Claims No: 17–1992V
80. Ralph M. Pavelka, Mora, Minnesota, Court of Federal Claims No: 17–1993V
81. Ashley Crenshaw, Baltimore, Maryland, Court of Federal Claims No: 17–1994V
82. Heather Lynch, Boston, Massachusetts, Court of Federal Claims No: 17–1995V
83. Marylou Porzio, Washington, District of Columbia, Court of Federal Claims No: 17–1996V
84. Melvina Wong, Washington, District of Columbia, Court of Federal Claims No: 17–1997V
85. Angela Lynch, Washington, District of Columbia, Court of Federal Claims No: 17–1999V
86. Leslie Kraus, Bensalem, Pennsylvania, Court of Federal Claims No: 17–2001V
87. Ramona Dicomo, Linwood, New Jersey, Court of Federal Claims No: 17–2002V
88. Martha Stanford, Florence, Alabama, Court of Federal Claims No: 17–2005V
89. Karen Hergett, Billings, Montana, Court of Federal Claims No: 17–2008V
90. Emily McHenry, Chicago, Illinois, Court of Federal Claims No: 17–2009V
91. George Foster, Henderson, New York, Court of Federal Claims No: 17–2010V
92. Laila Saghir, Owings Mills, Maryland,

Court of Federal Claims No: 17–2011V
93. Michael Dore, Cambridge, Massachusetts, Court of Federal Claims No: 17–2012V
94. Crystal Hill, Philadelphia, Pennsylvania, Court of Federal Claims No: 17–2013V
95. Harry Wilmore, Philadelphia, Pennsylvania, Court of Federal Claims No: 17–2014V
96. Elizabeth Mozer, Dresher, Pennsylvania, Court of Federal Claims No: 17–2015V
97. Jacqueline Pohlman, Auburn, Washington, Court of Federal Claims No: 17–2016V
98. Randall Fennig, Vienna, Virginia, Court of Federal Claims No: 17–2019V
99. Sarah L. Neal and Richard C. Neal on behalf of C. N., Deceased, Ocean City, New Jersey, Court of Federal Claims No: 17–2020V
100. Sarah Neal, Ocean City, New Jersey, Court of Federal Claims No: 17–2021V
101. Stephanie Myers, Towson, Maryland, Court of Federal Claims No: 17–2025V
102. Danielle Gilmore, Bradenton, Florida, Court of Federal Claims No: 17–2026V
103. Marissa Bialek, Washington, District of Columbia, Court of Federal Claims No: 17–2030V
104. Maria Elmakky, Washington, District of Columbia, Court of Federal Claims No: 17–2032V
105. Hoang-Hoa Nguyen on behalf of Tuyet Mai, Wellesley Hills, Massachusetts, Court of Federal Claims No: 17–2051V
106. Angela Gornowicz, Cuyahoga Falls, Ohio, Court of Federal Claims No: 17–2053V
107. Lucinda Kelley, Atlanta, Georgia, Court of Federal Claims No: 17–2054V
108. Cheyenne Prescott, Englewood, New Jersey, Court of Federal Claims No: 17–2055V
109. Sylvia Wiseman, Indianapolis, Indiana, Court of Federal Claims No: 17–2060V
110. Brian Anklam and Karen Anklam on behalf of N. A., Twin Falls, Idaho, Court of Federal Claims No: 17–2061V
111. Dean Hrieche, Englewood, New Jersey, Court of Federal Claims No: 17–2063V

[FR Doc. 2018–02052 Filed 1–31–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, February 16, 2018, 1:00 p.m. to February 16, 2018, 4:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892 which was published in the **Federal Register** on January 11, 2018, 83 FR 1375.

The meeting notice is amended to change the date of the meeting from February 16, 2018 to February 15, 2018. The location and time remain the same. The meeting is closed to the public.

Dated: January 29, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02036 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, January 23, 2018, 1:00 p.m. to January 23, 2018, 5:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on January 03, 2018, 83 FR PG 387.

The meeting will be held on March 7, 2018 at 1:00 and end at 3:30. The meeting location remains the same. The meeting is closed to the public.

Dated: January 29, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02032 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Allergy and Infectious Diseases Special Emphasis Panel; NIH Research Project Grant (Parent R01).

Date: March 5, 2018.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Dharmendar Rathore, Ph.D., Senior Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G30, National Institues of Health/NIAID, 5601 Fishers Lane, Drive, MSC 9823, Bethesda, MD 20892–9823, 240–669–5058, *rathored@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02037 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neuroscience of Aging Review Committee, February 1, 2018, 8:00 a.m. to February 2, 2018, 2:00 p.m., Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on January 3, 2018, 83 FR 386.

The meeting notice is amended to change the meeting location from Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814 to Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd., Rockville MD 20852. The meeting is closed to the public.

Dated: January 29, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02035 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; Mechanism For Time-Sensitive Research Opportunities In Environmental Health Sciences (R21).

Date: February 15, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Room 3118, Research Triangle Park, NC 27709.

Contact Person: Janice B. Allen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD, EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919–541–7556, *allen9@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 29, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02038 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk Prevention and Social Development.

Date: February 23, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16–260—Methodology and Measurement in the Behavioral and Social Sciences.

Date: February 26, 2018.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Delia Olufokunbi Sam, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301–435–0684, *olufokunbisamd@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Disparities and Equity Promotion Study Section.

Date: February 27–28, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Musculoskeletal and Oral Biology.

Date: February 27, 2018.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Srikanth Ranganathan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7802, Bethesda, MD 20892, 301–435–1787, *srikanth.ranganathan@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Interventions and Mechanisms for Addiction.

Date: February 27, 2018.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Cellular and Molecular Biology of Complex Brain Disorders.

Date: March 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Alexandrian, 480 King Street, Alexandria, VA 22314.

Contact Person: Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Ocular Surface, Cornea, Anterior Segment Glaucoma and Refractive Error.

Date: March 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW, Washington, DC 20037.

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of Neuroscience AREA Grant Applications.

Date: March 1–2, 2018.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Hotel & Suites Alexandria-Old Town, 625 First Street, Alexandria, VA 22314.

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301–694–7084, *crosland@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: March 1–2, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Mei Qin, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–875–2215, *qinmei@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Fogarty Global Brain Disorders.
Date: March 1–2, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street NW, Washington, DC 20036.
Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.
Date: March 1–2, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Old Town, 625 First Street, Alexandria, VA 22314.
Contact Person: Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS and AIDS-related applications.
Date: March 1, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Systems Science and Health in the Behavioral and Social Sciences.
Date: March 1, 2018.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biostatistical Methods and Research Design Study Section.
Date: March 1, 2018–March 2, 2018.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Peter J. Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR: Selected Topics in Transfusion Medicine.
Date: March 1–2, 2018.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.
Date: March 1–2, 2018.
Time: 10:30 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Cheryl M. Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 16–234: Accelerating the Pace of Drug Abuse Research Using Existing Data.
Date: March 1, 2018.
Time: 11:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Nursing and Related Clinical Sciences.
Date: March 1, 2018.
Time: 2:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Karin F. Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301–254–9975, *helmersk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Biology and Disease.
Date: March 1, 2018.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 26, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–01954 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Macromolecular Structure and Function C Study Section, February 8, 2018, 8:00 a.m. to February 9, 2018, 5:00 p.m., The Darcy Hotel, 1515 Rhode Island Avenue, Washington, DC 20005 which was published in the **Federal Register** on January 11, 2018, V 83 Pg. 1376.

The meeting will be held February 8, 2018 at 8:00 a.m. and end 8:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: January 29, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02033 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Skeletal Muscle and Exercise Physiology Study Section, February 8, 2018, 8:00 a.m. to February 9, 2018, 6:00 p.m., Hilton Long Beach and Executive Center, 701 West Ocean Boulevard, Long Beach, CA 90831 which was published in the **Federal Register** on January 19, 2018, 83 FR PG 2807.

The meeting will be held on February 7, 2018 at 6:00 p.m. and end February 8, 2018 9:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: January 29, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02031 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Nanotechnology Study Section, February 8, 2018, 8:00 a.m. to February 9, 2018, 5:00 p.m., Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202 which was published in the **Federal Register** on January 5, 2018, V–83 Pg. 683.

The meeting will be held on February 7, 2018 at 7:00 p.m. and end February 9, 2018 at 5:00. The meeting location remains the same. The meeting is closed to the public.

Dated: January 29, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02034 Filed 1–31–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Advisory Committee for Women's Services (ACWS); Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Advisory Committee for Women's Services (ACWS) on February 14, 2018.

The meeting will include discussions on assessing SAMHSA's current strategies related to women experiencing homelessness with behavioral health needs, and SAMHSA's strategies related to women in the criminal justice system with behavioral health needs. Additionally, the ACWS will be speaking with the Assistant Secretary of Mental Health and Substance Use regarding priorities and directions around behavioral health services and access for women and children.

The meeting is open to the public and will be held at SAMHSA, 5600 Fishers Lane, Rockville, MD, 20857, in Conference Room 5E29. Attendance by the public will be limited to space available. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions should be forwarded to the contact person (below) by February 5, 2018. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations are encouraged to notify the contact person on or before February 5, 2018. Five minutes will be allotted for each presentation.

The meeting may be accesed via telephone. To attend on site, obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx,* or communicate with SAMHSA's Designated Federal Officer, Ms. Valerie Kolick (see contact information below).

Substantive meeting information and a roster of ACWS members may be obtained either by accessing the SAMHSA Committees' Web *https://www.samhsa.gov/about-us/advisory-councils/meetings,* or by contacting Ms. Kolick.

Committee Name: Substance Abuse and Mental Health Services Administration Advisory Committee for Women's Services (ACWS).

Date/Time/Type: Wednesday, February 14, 2018, from: 9:00 a.m. to 4:45 p.m. EDT, Open.

Place: SAMHSA, 5600 Fishers Lane, Conference Room 5E29, Rockville, Maryland 20857.

Contact: Valerie Kolick, Designated Federal Official, SAMHSA's Advisory Committee for Women's Services, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (240) 276–1738, Email: *Valerie.kolick@samhsa.hhs.gov.*

Carlos Castillo,

Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 2018–02010 Filed 1–31–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N03A, Rockville, Maryland 20857; 240–276–2600 (voice).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920)

The Mandatory Guidelines were initially developed in accordance with

Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories).

HHS-Certified Laboratories

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 844–486–9226.

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890.

Dynacare *, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories).

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

Legacy Laboratory Services—MetroLab, 225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088, Testing for Veterans Affairs (VA) Employees Only.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories).

Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.

U.S. Army Forensic Toxicology Drug Testing, Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only.

Charles LoDico,

Chemist.

[FR Doc. 2018–01931 Filed 1–31–18; 8:45 am]

BILLING CODE 4160–20–P

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0030; OMB No. 1660–0142]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Survivor Sheltering Assessment

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before March 5, 2018.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Leah Davis, Program Manager, Disaster Management Support Environment, Recovery Technology Programs Division, 540–686–3227.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on November 22, 2017 at 82 FR 55622 with a 60-day public comment period. No comments were received regarding information collection 1660–0142. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Survivor Sheltering Assessment.

Type of Information Collection: Currently approved information collection with change.

OMB Number: OMB No. 1660–0142.

Form Titles and Numbers: FEMA Form 09–0–42, Survivor Sheltering Assessment.

Abstract: When a Presidential federally declared disaster or emergency occurs, impacted survivors often find themselves temporarily housed in shelters until they are able to return to their homes or find other housing solutions while they recovery. A FEMA employee will interview individual survivors located in shelters regarding the registration status and housing situation using an electronic copy of FEMA Form 009–0–42 Survivor Sheltering Assessment to record the information in the Disaster Management Support Environment Cloud Environment (DMSE CE) database. The purpose of this survey is to help FEMA understand how best it can support survivors as they transition out of temporary shelters. No information given will be used to determine eligibility for assistance. Eligibility for assistance will only be determined through the separate registration process.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 31,200.

Estimated Number of Responses: 31,200.

Estimated Total Annual Burden Hours: 5,201.

Estimated Total Annual Respondent Cost: $181,203.

Estimated Respondents' Operation and Maintenance Costs: None.

Estimated Respondents' Capital and Start-Up Costs: None.

Estimated Total Annual Cost to the Federal Government: $273,356.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: January 26, 2018.

William Holzerland,

Director, Information Management Divison, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–02011 Filed 1–31–18; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0061]

Private Sector Clearance Program, Cooperative Research and Development Agreement, and Classified Critical Infrastructure Protection Program Request

AGENCY: Office of Infrastructure Protection (IP), National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; revised collection, 1670–0013.

SUMMARY: DHS NPPD IP will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. Partnerships between the U.S. Government and the private sector at times necessitates the sharing of classified information. The Private Sector Clearance Program (PSCP), Cooperative Research And Development Agreement (CRADA), and Classified Critical Infrastructure Protection Program (CCIPP) Request Form facilitates this sharing by sponsoring security clearances for certain private sector partners.

DATES: Comments are encouraged and will be accepted until April 2, 2018.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0061, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: PSCP@HQ.DHS.GOV.* Please include docket number DHS–2017–0061 in the subject line of the message.
- *Mail:* Written comments and questions about this Information

Collection Request should be forwarded to DHS/NPPD/IP, ATTN: 1670–0013, 245 Murray Lane SW, Mail Stop 0380, Arlington, VA 20598–0640.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Quintin Whitaker at 703–235–9485 or at *PSCP@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION: Partnerships between the U.S. Government and the private sector at times necessitate the sharing of classified information. The PSCP and Cyber Information Sharing and Collaboration Program (CISCP) facilitate this sharing by sponsoring security clearances for certain members of each sector based on either their membership on a Sector Coordinating Council (SCC)/association or their infrastructure protection job-related duties. In order to begin the process of approving a nominee to participate in the clearance program, DHS collects the nominee's employment information and Personally Identifiable Information (PII). The nominee's association/SCC membership or employment information is reviewed for approval, and his or her PII is input into the Electronic Questionnaires for Investigations Processing (e-QIP) system, the Office of Personnel Management's (OPM) secure portal for investigation processing.

The U.S. Government is authorized to ask for this information under Section 201 of the Homeland Security Act of 2002 (Pub. L. 107–296, 6 U.S.C. 121), and Executive Orders 12968, 13526, and 13549, which authorize the collection of this information.

The PSCP is designed to facilitate access to security clearances for private sector officials involved in the infrastructure protection mission. The CISCP is designed to facilitate access to security clearances for private sector entities involved in cybersecurity information sharing related to the National Cybersecurity Communications Integration Center (NCCIC) via CRADAs and for individuals via the CCIPP. CRADAs are agreements between the U.S. government and private entities for joint research and development efforts, and can be used to create bi-directional information sharing frameworks between DHS and private sector entities. The CCIPP, commonly referred to as the ''Hybrid,'' is a tool through which DHS shares classified cybersecurity-related information with critical infrastructure partners. These partners are subject matter experts within specific industries and have specialized knowledge not available within DHS. Private citizens do not receive monetary compensation for their time. DHS has created these programs to sponsor clearances for these individuals who are not employed by or contracted with another Federal agency (the traditional means of obtaining a clearance) and must have clearances.

Program changes require a revision of the existing collection. These changes include: Updating the title of the collection, the form being used by CISCP, and updates to the form itself. The form will be used by the CISCP in the same manner as the PSCP to sponsor private sector entities and individuals for security clearances. The CISCP will increase the burden totals by 360 responses, 60 burden hours, and $6,155 annual burden cost. For the PSCP, the burden estimates have decreased by 200 responses, 33 burden hours and $706 annual burden cost based on actual responses received. As a result, the total burden estimates will increase overall by 160 responses, 27 burden hours, $5,448 annual burden costs.

The changes to the form itself include: adding CRADA and CCIPP to the title; adding drop down capabilities relevant for the CRADA and the CCIPP, adding justification guidance to the back of the form, and updating the wording of the field titles and instructions to improve clarity. The changes to the form itself will not change the burden estimates as the only field being added is a menu to distinguish the program type.

The annual government cost for the collection has increased by $242,850 due to the addition of the CISCP and has increased by $91,998 for the PSCP due to updated wage rates. As a result, the annual government cost has increased by $334,848.

This is a revised information collection.

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.

Title of Collection: Private Sector Clearance Program, Cooperative Research and Development Agreement, and Classified Critical Infrastructure Protection Program Request.

OMB Control Number: 1670–0013.

Frequency: Annually.

Affected Public: Private and Public Sector.

Number of Respondents: 660.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 110 hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $0.

David Epperson,

Chief Information Officer.

[FR Doc. 2018–02009 Filed 1–31–18; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2017–N168; FF09M13200/189/FXMB12330900000; OMB Control Number 1018–New]

Agency Information Collection Activities; Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) and Junior Duck Stamp Contests

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service, we) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before April 2, 2018.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–Duck Stamp in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract

History of the Federal Duck Stamp

On March 16, 1934, Congress passed, and President Franklin D. Roosevelt signed, the Migratory Bird Hunting Stamp Act (16 U.S.C. 718–718k). Popularly known as the Duck Stamp Act, it required all waterfowl hunters 16 years or older to buy a stamp annually. The revenue generated was originally earmarked for the Department of Agriculture, but 5 years later was transferred to the Department of the Interior and the Service.

In the years since its enactment, the Federal Duck Stamp Program has become one of the most popular and successful conservation programs ever initiated. Today, some 1.5 million stamps are sold each year, and as of 2017, Federal Duck Stamps have generated more than $1 billion for the preservation of more than 6 million acres of waterfowl habitat in the United States. Numerous other birds, mammals, fish, reptiles, and amphibians have similarly prospered because of habitat protection made possible by the program. An estimated one-third of the Nation's endangered and threatened species find food or shelter in refuges preserved by Duck Stamp funds. Moreover, the protected wetlands help dissipate storms, purify water supplies, store flood water, and nourish fish hatchlings important for sport and commercial fishermen.

History of the Duck Stamp Contest

Jay N. ''Ding'' Darling, a nationally known political cartoonist for the Des Moines Register and a noted hunter and wildlife conservationist, designed the first Federal Duck Stamp at President Roosevelt's request. In subsequent years, noted wildlife artists submitted designs. The first Federal Duck Stamp Contest was opened in 1949 to any U.S. artist who wished to enter, and 65 artists submitted a total of 88 design entries. Since then, the contest has been known as the Federal Migratory Bird Hunting and Conservation Stamp Art (Duck Stamp) Contest and has attracted large numbers of entrants.

The Duck Stamp Contest (50 CFR part 91) remains the only art competition of its kind sponsored by the U.S. Government. The Secretary of the Interior appoints a panel of noted art, waterfowl, and philatelic authorities to select each year's winning design. Winners receive no compensation for the work, except a pane of their stamps, but winners may sell prints of their designs, which are sought by hunters, conservationists, and art collectors.

The Service selects five or fewer species of waterfowl each year; each entry must employ one of the Service-designated species as the dominant feature (defined as being in the foreground and clearly the focus of attention). Designs may also include hunting dogs, hunting scenes, waterfowl decoys, national wildlife refuges as the background of habitat scenes, non-eligible species, or other scenes that depict uses of the stamp for sporting, conservation, and collecting purposes. Entries may be in any media EXCEPT photography or computer-generated art. Designs must be the contestants' original hand-drawn creation and may not be copied or duplicated from previously published art, including photographs, or from images in any format published on the internet.

History of the Junior Duck Stamp Contest

The Federal Junior Duck Stamp Conservation and Design Program (Junior Duck Stamp Program) began in 1989 as an extension of the Migratory Bird Conservation and Hunting Stamp. The national Junior Duck Stamp art contest started in 1993, and the first stamp design was selected from entries from eight participating states. The program was recognized by Congress with the 1994 enactment of the Junior Duck Stamp Conservation and Design Program Act (16 U.S.C. 719). All 50 states, Washington, DC, and 2 of the U.S. Territories currently participate in the annual contest.

The Junior Duck Stamp Program introduces wetland and waterfowl conservation to students in kindergarten through high school. It crosses cultural, ethnic, social, and geographic boundaries to teach greater awareness and guide students in exploring our nation's natural resources. It is the Service's premier conservation education initiative.

The Junior Duck Stamp Program includes a dynamic art- and science-based curriculum. This non-traditional pairing of subjects brings new interest to both the sciences and the arts. The program teaches students across the nation conservation through the arts, using scientific and wildlife observation principles to encourage visual communication about what they learn. Four curriculum guides, with activities and resources, were developed for use

as a year-round study plan to assist students in exploring science in real-life situations.

Modeled after the Federal Duck Stamp Contest, the annual Junior Duck Stamp Art and Conservation Message Contest (Junior Duck Stamp Contest) was developed as a visual assessment of a student's learning and progression. The Junior Duck Stamp Contest encourages partnerships among Federal and State government agencies, nongovernment organizations, businesses, and volunteers to help recognize and honor thousands of teachers and students throughout the United States for their participation in conservation-related activities. Since 2000, the contest has received more than 478,000 entries.

The winning artwork from the national art contest serves as the design for the Junior Duck Stamp, which the Service produces annually. This $5 stamp has become a much sought after collector's item. One hundred percent of the revenue from the sale of Junior Duck stamps goes to support recognition and environmental education activities for students who participate in the program. More than $1.25 million in Junior Duck Stamp proceeds have been used to provide recognition, incentives, and scholarships to participating students, teachers, and schools. The Program continues to educate youth about land stewardship and the importance of connecting to their natural worlds. Several students who have participated in the Junior Duck Stamp Program have gone on to become full-time wildlife artists and conservation professionals; many attribute their interest and success to their early exposure to the Junior Duck Stamp Program.

Who Can Enter the Federal Duck Stamp and Junior Duck Stamp Contests

The Duck Stamp Contest is open to all U.S. citizens, nationals, and resident aliens who are at least 18 years of age by June 1. Individuals enrolled in kindergarten through grade 12 may participate in the Junior Duck Stamp Contest. All eligible students are encouraged to participate in the Junior Duck Stamp Conservation and Design Program annual art and conservation message contest as part of the program curriculum through public, private, and homeschools, as well as through nonformal educational experiences such as those found in scouting, art studios, and nature centers.

Entry Requirements

Each entry in the Duck Stamp Contest requires a completed entry form and an entry fee. Information required on the entry form includes:

- ''Display, Participation & Reproduction Rights Agreement'' certification form;
- Basic contact information (name, address, phone numbers, and email address);
- Date of birth (to verify eligibility);
- Species portrayed and medium used; and
- Name of hometown newspaper (for press coverage).

Each entry in the Junior Duck Stamp Contest requires a completed entry form that requests:

- Basic contact information (name, address, phone numbers, and email address);
- Age (to verify eligibility);
- Parent's name and contact information;
- Whether the student has a Social Security or VISA immigration number (to verify eligibility to receive prizes);
- Whether the student is a foreign exchange student;
- Grade of student (so they may be judged with their peers);
- The title, species, medium used, and conservation message associated with the drawing;
- Basic contact information for their teacher and school (name, address, phone numbers, and email address); and
- Certification of authenticity.

Students in Grades 7–12 and all national level students are also required to include citations for any resources they used to develop their designs. We use this information to verify that the student has not plagiarized or copied someone else's work. The Service also translates entry forms into other appropriate languages to increase the understanding of the rules and what the parents and students are signing.

Title of Collection: Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) and Junior Duck Stamp Contests.

OMB Control Number: 1018—NEW.

Form Number: None.

Type of Review: Existing collection in use without an OMB Control Number.

Respondents/Affected Public: Individuals.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Activity	Total number of annual respondents	Average number of submissions each	Total number of annual responses	Average completion time per response (min)	Total annual burden hours
Duck Stamp Program Contest Entry Form					
Individuals	200	1	200	15	50
Junior Duck Stamp Program Contest Entry Form					
Individuals	25,000	1	25,000	* 30	12,500
Totals	25,200	1	25,200		12,550

* Burden for Junior Duck Stamp Program entry form is longer since both the parents and teacher must sign the form, and the student must provide references.

Total Estimated Annual Nonhour Burden Cost: $25,000.00 annually associated with entry fees required for contest entry submissions and mailing costs for submissions to the Federal Duck Stamp Contest. There are no fees associated with the Junior Duck Stamp Contest submissions.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: January 29, 2018.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2018–01968 Filed 1–31–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2017–N148; FXES11140400000–178–FF04E00000]

Endangered and Threatened Wildlife; Incidental Take Permit Application, Habitat Conservation Plan for Skink Species, and Environmental Assessment for Roadway Relocation in Polk County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: Under the Endangered Species Act of 1973, as amended (ESA), we, the Fish and Wildlife Service (Service), announce the receipt and availability of a proposed habitat conservation plan and environmental assessment related to an application for a permit associated with relocation of a 1.3-mile segment of Dude Ranch Road (project) located in Polk County, Florida. If issued, the permit would authorize take of the threatened sand skink and blue-tailed mole skink incidental to project construction. We invite the public to comment on these documents.

DATES: To ensure consideration, please send your written comments by March 5, 2018.

ADDRESSES:

Obtaining Documents: Documents are available for public inspection by appointment during regular business hours at either of the following locations:

- Atlanta Regional Office, Ecological Services, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345.
- South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960.

Submitting Comments: Submit comments by one of the following methods. Please reference TE21091C–0 in all comments. For additional guidance, please see Public Comments under **SUPPLEMENTARY INFORMATION**.

U.S. mail: You may mail comments to the Fish and Wildlife Service's Atlanta Regional Office.

Hand-delivery: You may hand-deliver comments to the Atlanta or the Vero Beach Offices.

Email: You may email comments to *david_dell@fws.gov*. Please include your name and email address in your email message. If you do not receive an email confirmation from us that we have received your email message, contact us directly at either telephone number in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, at the Atlanta Regional Office (see **ADDRESSES**); or Mr. John Wrublik, Project Manager, at the South Florida Ecological Services Office (see **ADDRESSES**); telephone: 772–469–4282. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.,* ESA), we, the U.S. Fish and Wildlife Service, announce the receipt and availability of a proposed habitat conservation plan (HCP), accompanying incidental take permit (ITP) application, and environmental assessment (EA) related to an application from Cemex Construction Materials Florida, LLC (applicant) for a permit to take sand skink (*Neoseps reynoldsi*) and blue-tailed mole skink (*Eumeces egregius lividus*) (covered species), incidental to the relocation of a 1.3-mile segment of Dude Ranch Road in Polk County, Florida. We invite the public to comment on these documents.

The applicants' proposed HCP describes the mitigation and minimization measures proposed to address the impacts to the covered species. Per the National Environmental Policy Act (42 U.S.C. 4321 *et seq.;* NEPA), the EA analyzes the take of the covered species and impact to the environment. The applicant requests a 5-year ITP under section 10(a)(1)(B) of the ESA, as amended (16 U.S.C. 1531 *et seq.*).

Environmental Assessment

The EA assesses the likely environmental impacts associated with the implementation of the activities, including the environmental consequences of the no-action alternative, relocation of the roadway segment outside of the proposed footprint, and the proposed action. The proposed action alternative is issuance of the ITP and implementation of the HCP as submitted by the applicant. The applicant anticipates destroying approximately 12.1 acres of occupied sand skink and blue-tailed mole skink habitat incidental to relocation and construction of a 1.3-mile section of Dude Ranch Road in Polk County, Florida. The existing paved two-lane county roadway is being relocated, per permission of Polk County, to allow for sand mining within the existing Dude Ranch Road footprint and lands adjacent to this footprint. The applicant indicates that sand mining in this area would not be financially feasible without relocation of the roadway. Polk County requires the applicant to relocate the roadway segment to maintain access for local residents and the public to the areas adjacent to the project site.

Habitat Conservation Plan

The HCP includes measures to minimize and mitigate impacts to the sand skink and the blue-tailed mole skink resulting from the roadway relocation. To minimize impacts to these species and their habitat, the footprint of the relocated roadway was reduced to the greatest extent practicable. The mitigation proposed by the applicant consists of the purchase of 24.2 credits (equaling 12.1 acres of skink habitat) from the Scrub Conservation Bank (SCB) in Highlands County, Florida. The SCB, which is a Service approved conservation bank, will preserve and manage skink habitat in perpetuity.

Public Comments

We specifically request information, views, and opinions from the public on our proposed Federal action, including identification of any other aspects of or impacts to the human environment not already identified in the EA prepared pursuant to the NEPA regulations at 40 CFR 1506.6. Further, we specifically solicit information regarding the adequacy of the HCP per 50 CFR parts 13 and 17.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Covered Area

Sand skinks and blue-tailed mole skinks historically occurred within xeric uplands throughout the sandy ridges of central Florida. The area encompassed by the ITP application and HCP consists of 12.1 acres of privately owned lands

currently leased by the applicant in Polk County, Florida.

Next Steps

We will evaluate the ITP application, including the HCP, and any comments we receive to determine whether the application meets the requirements of section 10(a)(1)(B) of the ESA. We will also evaluate whether a section 10(a)(1)(B) ITP should be issued, as well as conduct an intra-Service consultation pursuant to section 7 of the ESA. We will use the results of this consultation and the above findings in our final analysis to determine whether to issue the ITP. If we determine that the requirements are met, we will issue the ITP number TE21091C–0 for the incidental take of the sand skink and the blue-tailed mole skink to the applicant.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Mike Oetker,

Acting Regional Director.

[FR Doc. 2018–02015 Filed 1–31–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–18X–L14400000.BJ0000; MO #4500118138]

Notice of Proposed Filing of Plats of Survey: Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed official filing.

SUMMARY: The plats of surveys for the lands described in this notice are scheduled to be officially filed 30 calendar days after the date of this publication in the BLM Montana State Office, Billings, Montana. The surveys, which were executed at the request of the BLM, are necessary for the management of these lands.

DATES: A person or party who wishes to protest this decision must file a notice of protest in time for it to be received in the BLM Montana State Office no later than 30 days after the date of this publication.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Josh Alexander, BLM Chief Cadastral Surveyor for Montana; telephone: (406) 896–5123; email: *jalexand@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

Fifth Principal Meridian, North Dakota

T. 145 N, R. 102 W
Secs. 34 and 35.

A person or party who wishes to protest an official filing of a plat of survey identified above must file a written notice of protest with the BLM Chief Cadastral Surveyor for Montana at the address listed in the **ADDRESSES** section of this notice. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be received in the BLM Montana State Office no later than the scheduled date of the proposed official filing for the plat(s) of survey being protested; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of the protest, if not filed with the notice of protest, must be filed with the BLM Chief Cadastral Surveyor for Montana within 30 calendar days after the notice of protest is received.

If a notice of protest of the plat(s) of survey is received prior to the scheduled date of official filing or during the 10 calendar day grace period provided in 43 CFR 4.401(a) and the delay in filing is waived, the official filing of the plat(s) of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day after all timely protests have been dismissed or otherwise resolved.

If a notice of protest is received after the scheduled date of official filing and the 10 calendar day grace period provided in 43 CFR 4.401(a), the notice of protest will be untimely, may not be considered, and may be dismissed.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chapter 3.

Joshua F. Alexander,

Chief Cadastral Surveyor for Montana.

[FR Doc. 2018–02022 Filed 1–31–18; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18XL1109AF LLUT920000 L13100000 FI0000 25–7A]

Notice of Proposed Class II Reinstatement of Terminated Oil and Gas Lease UTU77328, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reinstatement.

SUMMARY: In accordance with Section 31 of the Mineral Leasing Act of 1920, as amended, Berry Petroleum Company timely filed a petition for reinstatement of oil and gas lease UTU77328 for lands in Duchesne County, Utah, along with all required rentals and royalties accruing from July 1, 2014, the date of termination. The BLM proposes to reinstate the lease.

DATES: The BLM is proposing to reinstate the lease on March 5, 2018.

FOR FURTHER INFORMATION CONTACT: Kent Hoffman, Deputy State Director, Lands and Minerals, Utah State Office, Bureau of Land Management, 440 West 200 South, Suite 500, Salt Lake City, Utah, 84101, phone: 801–539–4063, email: *khoffman@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to new lease terms for rental and royalty. The rental for UTU77328 will increase to $5 per acre or fraction thereof and the royalty will increase to 16⅔ percent. The $500 administrative fee for the leases has been paid, and the lessee has reimbursed the Bureau of Land Management (BLM) for the cost of publishing this notice.

The following-described lands in Duchesne County, Utah, include:

UTU77328

Uintah Meridian, Utah

T. 6 S., R 5 W.,
Sec. 7, excepting Patent No. 424727;
Sec. 8, excepting Patent No. 424727;
Sec. 18.
The area described contains 1,890.39 acres.

As the lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the BLM is proposing to reinstate the lease 30 days following publication of this notice, with the effective date of July 1, 2014, subject to the increased rental and royalty rates cited above. The lease is also subject to the following additional new terms and conditions:

(1) No Surface Occupancy Stipulation—Anthro Mountain Habitat Management Area;

(2) Cultural Resources Protection Stipulation;

(3) Threatened and Endangered Species Act Stipulation;

(4) Air Quality Mitigation Measures; and

(5) Federal Flood Risk Management Standard Lease Notice.

Authority: Mineral Leasing Act of 1920 (30 U.S.C. 188) 43 CFR 3108.2–3.

Edwin L. Roberson,

State Director.

[FR Doc. 2018–01944 Filed 1–31–18; 8:45 am]

BILLING CODE 4310–DQ–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–747 (Fourth Review)]

Fresh Tomatoes From Mexico; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted February 1, 2018. To be assured of consideration, the deadline for responses is March 5, 2018. Comments on the adequacy of responses may be filed with the Commission by April 16, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *https://www.usitc.gov.* The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On November 1, 1996, the Department of Commerce (''Commerce'') suspended an antidumping duty investigation on imports of fresh tomatoes from Mexico (61 FR 56618). On October 1, 2001, Commerce initiated its first five-year review of the suspended investigation (66 FR 49926). On the basis of the withdrawal from the suspension agreement by Mexican tomato growers which accounted for a significant percentage of all fresh tomatoes imported into the United States from Mexico, Commerce terminated the suspension agreement, terminated the first five-year review, and resumed the antidumping investigation, effective July 30, 2002 (67 FR 50858, August 6, 2002). On December 16, 2002, Commerce suspended the antidumping duty investigation on imports of fresh tomatoes from Mexico (67 FR 77044). On November 1, 2007, Commerce initiated its second five-year review of the suspended investigation (72 FR 61861). Once again, based on the withdrawal from the suspension agreement by Mexican tomato growers which accounted for a significant percentage of all fresh tomatoes imported into the United States from Mexico, Commerce terminated the suspension agreement, terminated the second five-year review, and resumed the antidumping investigation, effective January 18, 2008 (73 FR 2887, January 16, 2008). The antidumping investigation was again suspended effective January 22, 2008 (73 FR 4831, January 8, 2008). On December 3, 2012, Commerce initiated its third five-year review of the suspended investigation (77 FR 71684). On February 28, 2013, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico provided written notice to Commerce of their withdrawal from the suspension agreement on fresh tomatoes from Mexico. Because the suspension agreement no longer covered substantially all imports of fresh tomatoes from Mexico, Commerce terminated the suspension agreement, terminated the third five-year review of the suspended investigation, and resumed the antidumping investigation, effective March 1, 2013 (78 FR 14771, March 7, 2013). On March 4, 2013, Commerce signed a new agreement with certain growers/exporters of fresh tomatoes from Mexico, and again suspended its investigation on these imports effective March 4, 2013 (78 FR 14967, March 8, 2013). The Commission is now instituting a fourth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is Mexico.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* For the purpose of the original preliminary investigation, the Commission defined the *Domestic Like Product* as all fresh market tomatoes. Fresh market tomatoes do not include processing tomatoes.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. For the purpose of the original

preliminary investigation, the Commission defined the *Domestic Industry* as growers and packers of fresh tomatoes.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 5, 2018. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is April 16, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 18–5–405, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. grower or packer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. growers and packers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. grower or packer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2017, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* grown and/or packed in your U.S. facility(ies);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* grown and/or packed in your U.S. facility(ies); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* grown and/or packed in your U.S. facility(ies) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: January 19, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–01348 Filed 1–31–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–921 (Third Review)]

Folding Gift Boxes From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on folding gift boxes from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted February 1, 2018. To be assured of consideration, the deadline for responses is March 5, 2018. Comments on the adequacy of responses may be filed with the Commission by April 16, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *https://www.usitc.gov.* The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 8, 2002, the Department of Commerce issued an antidumping duty order on imports of folding gift boxes from China (67 FR 864). Following the first five-year reviews by Commerce and the Commission, effective May 18, 2007, Commerce issued a continuation of the antidumping duty order on imports of folding gift boxes from China (72 FR 28025). Following the second five-year reviews by Commerce and the Commission, effective March 5, 2013, Commerce issued a continuation of the antidumping duty order on imports of folding gift boxes from China (78 FR 14269). The Commission is now conducting a third review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first and second five-year review determinations, the Commission defined the *Domestic Like Product* as certain folding gift boxes for resale, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first and second five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of certain folding gift boxes for resale.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 5, 2018. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is April 16, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 18–5–404, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2017, except as noted (report quantity data in pieces and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company

transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in pieces and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in pieces and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: January 19, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–01343 Filed 1–31–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1103 (Second Review)]

Certain Activated Carbon From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted February 1, 2018. To be assured of consideration, the deadline for responses is March 5, 2018. Comments on the adequacy of responses may be filed with the Commission by April 16, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *https://www.usitc.gov.* The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 27, 2007, the Department of Commerce issued an antidumping duty order on imports of certain activated carbon from China (72 FR 20988). Following the first five-year reviews by Commerce and the Commission, effective March 18, 2013, Commerce issued a continuation of the antidumping duty order on imports of certain activated carbon from China (78 FR 16654). The Commission is now conducting a second review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the

domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its full first five-year review determination, the Commission defined the *Domestic Like Product* to be certain activated carbon, coextensive with Commerce's scope of the investigation.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all known producers of certain activated carbon, with the exception of one firm, California Carbon, which was excluded pursuant to the related parties provision. In the full first five-year review, the Commission defined the *Domestic Industry* as all known producers of certain activated carbon.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 5, 2018. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is April 16, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 18–5–403, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandis*e, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2017, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of

Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: January 19, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–01342 Filed 1–31–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–597 and 731–TA–1407 (Preliminary)]

Cast Iron Soil Pipe From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–597 and 731–TA–1407 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of cast iron soil pipe from the China, provided for in statistical reporting number 7303.00.0030 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by March 12, 2018. The Commission's views must be transmitted to Commerce within five business days thereafter, or by March 19, 2018.

DATES: January 26, 2018.

FOR FURTHER INFORMATION CONTACT: Amelia Shister (202) 205–2047), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *https://www.usitc.gov.* The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on January 26, 2018, by the Cast Iron Soil Pipe Institute, Mundelein, Illinois.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Friday, February 16, 2018, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Requests to appear at the conference should be emailed to *preliminary conferences@usitc.gov* (DO NOT FILE ON EDIS) on or before February 14, 2018. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may

submit to the Commission on or before February 22, 2018, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: January 26, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–01965 Filed 1–31–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration as bulk manufacturers of various classes of schedule I and II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as bulk manufacturers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

Company	FR Docket	Published
Euticals, Inc	82 FR 50159	October 30, 2017.
Cerilliant Corporation	82 FR 51439	November 6, 2017.
Cambrex Charles City	82 FR 51642	November 7, 2017.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed persons.

Dated: January 26, 2018.

Susan A. Gibson,

Deputy Assistant Administrator.

[FR Doc. 2018–02007 Filed 1–31–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration as importers of various classes of schedule I or II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as importers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted and no requests for hearing were submitted for these notices.

Company	FR Docket	Published
ABBVIE, LTD	82 FR 56994	December 1, 2017.
VHG Labs DBA LGC Standard Warehouse	82 FR 58654	December 13, 2017.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrants to import the applicable basic classes of

schedule I or II controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I or II controlled substances to the above listed persons.

Dated: January 26, 2018.

Susan A. Gibson,

Deputy Assistant Administrator.

[FR Doc. 2018–02006 Filed 1–31–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On January 25, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Indiana in the lawsuit entitled *United States and State of Indiana* v. *Indiana Harbor Coke Company, et al.,* Civil Action No. 18–cv–35.

The Complaint seeks civil penalties and injunctive relief for alleged violations of the Clean Air Act (''CAA'') and Title 326 of the Indiana Administrative Code against Indiana Harbor Coke Company, its corporate parent SunCoke Energy, Inc., and Cokenergy, LLC (collectively, the ''Defendants''), the owners and/or operators of the coking facility, located in East Chicago, Indiana. The Complaint alleges violations of the CAA and Title 326 of the Indiana Administrative Code relating primarily to excess emissions of coke oven gases from leaking coke ovens and bypass vent stacks.

Under the proposed Consent Decree, Defendants would be jointly and severally liable for a $5 million civil penalty, to be split evenly between the United States and Indiana, and Cokenergy would perform a lead abatement supplemental environmental project at a cost of $250,000. The proposed Consent Decree also would require comprehensive coke oven rebuilds to address oven leaks, including potential permanent shut down of an entire battery, representing one fourth of the total number of ovens; interim and permanent reductions in the annual bypass venting permit limit; enhanced monitoring and testing requirements, including solar occultation flux testing; implementation of preventive operations and maintenance plans to minimize conditions that might cause excess emissions; root cause failure analyses for bypass venting incidents and repeated coke oven leaks; and two mitigation measures, dual operation of the spray dryer absorbers to achieve a reduction in sulfur dioxide emissions from the facility and maintenance of two quench towers to achieve a reduction in particulate matter emissions.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Indiana* v. *Indiana Harbor Coke Company, et al.,* D.J. Ref. No. 90–5–2–1–08555/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $12.40 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–01942 Filed 1–31–18; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** on November 30, 2017, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 7th Street NW, Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Room W18000 Alexandria, Virginia 22314, or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling Ms. Plimpton at (703) 292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title: Request for Proposals.

OMB Control Number: 3145–0080.

Proposed Project: The Federal Acquisition Regulations (FAR) Subpart 15.2—''Solicitation and Receipt of Proposals and Information'' prescribes policies and procedures for preparing and issuing Requests for Proposals. The FAR System has been developed in accordance with the requirement of the Office of Federal Procurement Policy Act of 1974, as amended. The NSF Act of 1950, as amended, 42 U.S.C. 1870, Sec. II, states that NSF has the authority to:

(c) Enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration, without performance or other bonds and without regard to section 5 of title 41, U.S.C.

Use of the Information: Request for Proposals (RFP) is used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Estimate of Burden: The Foundation estimates that, on average, 558 hours per respondent will be required to complete the RFP.

Respondents: Individuals; business or other for-profit; not-for-profit institutions; Federal government; state, local, or tribal governments.

Estimated Number of Responses: 75.

Estimated Total Annual Burden on Respondents: 41,850 hours.

Dated: January 29, 2018.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2018–01986 Filed 1–31–18; 8:45 am]

BILLING CODE 7555–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Senior Executive Service Performance Review Board Membership

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Annual notice.

SUMMARY: Notice is given of the appointment of members to the Performance Review Board (PRB) of the Occupational Safety and Health Review Commission.

DATE: Membership is effective on February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Linda M. Beard, Human Resources Specialist, U.S. Occupational Safety and Health Review Commission, 1120 20th Street NW, Washington, DC 20036, (202) 606–5393.

SUPPLEMENTARY INFORMATION: The Review Commission, as required by 5 U.S.C. 4314(c)(1) through (5), has established a Senior Executive Service PRB. The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations to the Chairman of the Review Commission regarding performance ratings, performance awards, and pay-for-performance adjustments. Members of the PRB serve for a period of 24 months. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees, pursuant to 5 U.S.C. 4314(c)(5). The names and titles of the PRB members are as follows:

- David Eddy, Chief Counsel Federal Labor Relations Authority;
- Rachel Leonard, General Counsel of the President, Office of Science and Technology Policy Eisenhower Executive Office Building (EEOB);
- Mary Thien Hoang, Chief of Staff Federal Maritime Commission; and
- Ted Wackler, P.E. Deputy Chief of Staff, Executive Office of the President, Office of Science and Technology Policy EEOB.

Dated: January 24, 2018.

Heather L. MacDougall,

Chairman.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82588; File No. SR–FICC–2018–001]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Changes to the Required Fund Deposit Calculation in the Government Securities Division Rulebook

January 26, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 12, 2018, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this filing is to amend the Government Securities Division (''GSD'') Rulebook (the ''GSD Rules'')[4] to propose changes to GSD's method of calculating Netting Members' margin, referred to in the GSD Rules as the Required Fund Deposit amount.[5] Specifically, FICC is proposing to (1) change its method of calculating the VaR Charge component, (2) add a new component referred to as the ''Blackout Period Exposure Adjustment'' (as defined in section C. of Item II(A)1.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On January 12, 2018, FICC filed this proposed rule change as an advance notice (SR–FICC–2018–801) (''Advance Notice Filing'') with the Commission pursuant to Section 806(e)(1) Of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (the ''Clearing Supervision Act''), 12 U.S.C. 5465(e)(1), and Rule 19b–4(n)(1)(i) under the Act, 17 CFR 240.19b–4(n)(1)(i). A copy of the advance notice is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[4] Available at DTCC's website, *www.dtcc.com/legal/rules-and-procedures.aspx.* Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the GSD Rules.

[5] *Id.* at GSD Rules 1 and 4.

below), (3) eliminate the Blackout Period Exposure Charge and the Coverage Charge components, (4) amend the Backtesting Charge component to (i) include the backtesting deficiencies of certain GCF Counterparties during the Blackout Period [6] and (ii) give GSD the ability to assess the Backtesting Charge on an intraday basis for all Netting Members, and (5) amend the calculation for determining the Excess Capital Premium for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members. In addition, FICC is proposing to provide transparency with respect to GSD's existing authority to calculate and assess Intraday Supplemental Fund Deposit amounts.[7]

FICC has also provided the following documentation to the Commission:

1. Backtesting results reflect FICC's comparison of the aggregate Clearing Fund requirement (''CFR'') under GSD's current methodology and the aggregate CFR under the proposed methodology (as listed in the first paragraph above) to historical returns of end-of-day snapshots of each Netting Member's portfolio for the period May 2016 through October 2017. The CFR backtesting results under the proposed methodology were calculated in two ways for end-of-day portfolios: One set of results included the proposed Blackout Period Exposure Adjustment and the other set of results excluded the proposed Blackout Period Exposure Adjustment.

2. An impact study that shows the portfolio level VaR Charge under the proposed methodology for the period January 3, 2013 through December 30, 2016,[8] and

3. An impact study that shows the aggregate Required Fund Deposit amount by Netting Member for the period May 1, 2017 through November 30, 2017.

4. The GSD Initial Margin Model (the ''QRM Methodology'') which would reflect the proposed methodology of the VaR Charge calculation and the proposed Blackout Period Exposure Adjustment.

FICC is requesting confidential treatment of the above-referenced backtesting results, impact studies and QRM Methodology, and has filed it separately with the Commission.[9]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the GSD Rules to propose changes to GSD's method of calculating Netting Members' margin, referred to in the GSD Rules as the Required Fund Deposit amount. Specifically, FICC is proposing to (1) change its method of calculating the VaR Charge component, (2) add the Blackout Period Exposure Adjustment as a new component, (3) eliminate the Blackout Period Exposure Charge and the Coverage Charge components, (4) amend the Backtesting Charge to (i) consider the backtesting deficiencies of certain GCF Counterparties during the Blackout Period [10] and (ii) give GSD the ability to assess the Backtesting Charge on an intraday basis for all Netting Members, and (5) amend the calculation for determining the Excess Capital Premium for Broker Netting Members, Dealer Netting Members and Inter-Dealer Broker Netting Members. In addition, FICC is proposing to provide transparency with respect to GSD's existing authority to calculate and assess Intraday Supplemental Fund Deposit amounts.[11]

The proposed QRM Methodology would reflect the proposed methodology of the VaR Charge calculation and the proposed Blackout Period Exposure Adjustment calculation.

A. The Required Fund Deposit and Clearing Fund Calculation Overview

GSD provides trade comparison, netting and settlement for the U.S. Government securities marketplace. Pursuant to the GSD Rules, Netting Members may process the following securities and transaction types through GSD: (1) Buy-sell transactions in eligible U.S. Treasury and Agency securities, (2) delivery versus payment repurchase agreement (''repo'') transactions, where the underlying collateral must be U.S. Treasury securities or Agency securities, and (3) GCF Repo Transactions, where the underlying collateral must be U.S. Treasury securities, Agency securities, or eligible mortgage-backed securities.

A key tool that FICC uses to manage counterparty risk is the daily calculation and collection of Required Fund Deposits from Netting Members.[12] The Required Fund Deposit serves as each Netting Member's margin. Twice each business day, Netting Members are required to satisfy their Required Fund Deposit by 9:30 a.m. (E.T.) (the ''AM RFD'') and 2:45 p.m. (E.T.) (the ''PM RFD''). The aggregate of all Netting Members' Required Fund Deposits constitutes the Clearing Fund of GSD, which FICC would access should a defaulting Netting Member's own Required Fund Deposit be insufficient to satisfy losses to GSD caused by the liquidation of that Netting Member's portfolio. The objective of a Netting Member's Required Fund Deposit is to mitigate potential losses to GSD associated with liquidation of such Member's portfolio in the event that FICC ceases to act for such Member (hereinafter referred to as a ''default'').

As discussed below, a Netting Member's Required Fund Deposit currently consists of the VaR Charge and, to the extent applicable, the Coverage Charge, the Blackout Period Exposure Charge, the Backtesting Charge, the Excess Capital Premium, and other components.[13]

1. GSD's Required Fund Deposit Calculation—the VaR Charge Component

The VaR Charge generally comprises the largest portion of a Netting Member's Required Fund Deposit

[6] As further discussed in subsection F of Item II(A)1. below, the proposed Backtesting Charge would consider a GCF Counterparty's backtesting deficiencies that are attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period.

[7] Pursuant to the GSD Rules, FICC has the existing authority and discretion to calculate an additional amount on an intraday basis in the form of an Intraday Supplemental Clearing Fund Deposit. *See* GSD Rules 1 and 4, Section 2a, *supra* note 4.

[8] This period includes market stress events such as the U.S. presidential election, United Kingdom's vote to leave the European Union, and the 2013 spike in U.S. Treasury yields which resulted from the Federal Reserve's plans to reduce its balance sheet purchases.

[9] *See* 17 CFR 240–24b–2.

[10] As further discussed in subsection F of section II(A)1.below, the proposed Backtesting Charge would consider a GCF Counterparty's backtesting deficiencies that are attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period.

[11] *See supra* note 7.

[12] *See* GSD Rules 1 and 4, *supra* note 4.

[13] Pursuant to the GSD Rules, the Required Fund Deposit calculation may include the following additional components: The Holiday Charge, the Cross-Margining Reduction, the GCF Premium Charge, the GCF Repo Event Premium, the Early Unwind Intraday Charge and the Special Charge. *See* GSD Rules 1 and 4, *supra* note 4. FICC is not proposing any changes to these components, thus a description of these components is not included in this rule filing.

amount. Currently, GSD uses a methodology referred to as the ''full revaluation'' approach to capture the market price risk associated with the securities in a Netting Member's portfolio. The full revaluation approach uses valuation algorithms to fully reprice each security in a Netting Member's portfolio over a range of historically simulated scenarios. These historical market moves are then used to project the potential gains or losses that could occur in connection with the liquidation of a defaulting Netting Member's portfolio to determine the amount of the VaR Charge, which is calibrated to cover the projected liquidation losses at a 99% confidence level.

The VaR Charge provides an estimate of the possible losses for a given portfolio based on a given confidence level over a particular time horizon. The current VaR Charge is calibrated at a 99% confidence level based on a front-weighted [14] 1-year look-back period assuming a three-day liquidation period.[15] In the event that FICC determines that certain classes of securities in a Netting Member's portfolio (including, but not limited to, the repo rate for Term Repo Transactions and Forward-Starting Repo Transactions) are less amenable to statistical analysis,[16] FICC may apply a historic index volatility model rather than the VaR calculation.[17]

In addition to the full revaluation approach that GSD uses to calculate the VaR Charge, GSD also utilizes ''implied volatility indicators'' among the assumptions and other observable market data as part of its volatility model. Specifically, GSD applies a multiplier (also known as the ''augmented volatility adjustment multiplier'') to calculate the VaR Charge. The multiplier is based on the levels of change in current and implied volatility measures of market benchmarks.

FICC also employs a supplemental risk charge referred to as the Margin Proxy.[18] The Margin Proxy is designed to help ensure that each Netting Member's VaR Charge is adequate and, at the minimum, mirrors historical price moves.

2. GSD's Required Fund Deposit Calculation—Other Components

In addition to the VaR Charge, a Netting Member's Required Fund Deposit calculation may include a number of other components including, but not limited to, the Coverage Charge, the Blackout Period Exposure Charge, and the Backtesting Charge.[19] In addition, the Required Fund Deposit may include an Excess Capital Premium charge.[20]

The Coverage Charge is designed to address potential shortfalls [21] in the margin amount calculated by the existing VaR Charge and Funds-Only Settlement.[22] Thus, the Coverage Charge is applied to supplement the VaR Charge to help ensure that a Netting Member's backtesting coverage achieves the 99% confidence level.

The Blackout Period Exposure Charge is applied when FICC determines that a GCF Counterparty has experienced backtesting deficiencies due to reductions in the notional value of the mortgage-backed securities used to collateralize its GCF Repo Transactions during the monthly Blackout Period. This charge is designed to mitigate FICC's exposure resulting from potential decreases in the collateral value of mortgage-backed securities that occur during the monthly Blackout Period.

The Backtesting Charge is applied when FICC determines that a Netting Member's portfolio has experienced backtesting deficiencies over the prior 12-month period. The Backtesting Charge is designed to mitigate exposures to GSD caused by settlement risks that may not be adequately captured by GSD's Required Fund Deposit.

The Excess Capital Premium is applied to a Netting Member's Required Fund Deposit when its VaR Charge exceeds its Excess Capital. The Excess Capital Premium is designed to more effectively manage a Netting Member's credit risk to GSD that is caused because such Netting Member's trading activity has resulted in a VaR Charge that is greater than its excess regulatory capital.

3. GSD's Backtesting Process

FICC employs daily backtesting to determine the adequacy of each Netting Member's Required Fund Deposit. Backtesting compares the Required Fund Deposit for each Netting Member with actual price changes in the Netting Member's portfolio. The portfolio values are calculated using the actual positions in a Netting Member's portfolio on a given day and the observed security price changes over the following three days. The backtesting results are reviewed by FICC as part of its performance monitoring and assessment of the adequacy of each Netting Member's Required Fund Deposit. As noted above, a Backtesting Charge may be assessed if GSD determines that a Netting Member's Required Fund Deposit may not fully address the projected liquidation losses estimated from such Netting Member's settlement activity. Similarly, the Coverage Charge may be assessed to address potential shortfalls in the VaR Charge calculation. The Coverage Charge supplements the VaR Charge to help ensure that the Netting Member's backtesting coverage achieves the 99% confidence level. The Coverage Charge considers the backtesting results of only the VaR Charge (including the augmented volatility adjustment multiplier) and mark-to-market, while the Backtesting Charge considers the total Required Fund Deposit amount.

B. Proposed Changes to GSD's Calculation of the VaR Charge

FICC is proposing to amend its calculation of GSD's VaR Charge because during the fourth quarter of 2016, FICC's current methodology for calculating the VaR Charge did not respond effectively to the market volatility that existed at that time. As a result, the VaR Charge did not achieve backtesting coverage at a 99% confidence level and therefore yielded backtesting deficiencies beyond FICC's risk tolerance. In response, FICC implemented the Margin Proxy to help ensure that each Netting Member's VaR Charge achieves a minimum 99%

[14] A fronted weighted approach means that GSD allows recently observed market data to have more impact on the VaR Charge than older historic market data.

[15] The three-day liquidation period is sometimes referred to as the ''margin period of risk'' or ''closeout-period.'' This period reflects the time between the most recent collection of the Required Fund Deposit from a defaulting Netting Member and the liquidation of such Netting Member's portfolio. FICC currently assumes that it would take three days to liquidate or hedge a portfolio in normal market conditions.

[16] Certain classes of securities are less amenable to statistical analysis because FICC believes that it does not observe sufficient historical market price data to reliably estimate the 99% confidence level.

[17] *See* GSD Rule 4 Section 1b(a), *supra* note 4.

[18] The Margin Proxy is currently used to provide supplemental coverage to the VaR Charge, however, pursuant to this rule filing, the Margin Proxy would only be used as an alternative volatility calculation as described below in subsection B.3.—*Proposed change to implement the Margin Proxy as the VaR Charge during a vendor data disruption.*

[19] *See supra* note 13.

[20] *See* GSD Rules 1 and 3, Section 1, *supra* note 4.

[21] While multiple factors may contribute to a shortfall, shortfalls could be observed based on the mark-to-market change on a Netting Member's positions after the last margin collection.

[22] The Coverage Charge is calculated as the front-weighted average of backtesting coverage deficiencies observed over the prior 100 days. The backtesting coverage deficiencies are determined by comparing (x) the simulated liquidation profit and loss of a Netting Member's portfolio (using actual positions in the Member's portfolio and the actual historical returns on the security positions in the portfolio) to (y) the sum of the VaR Charge and the Funds-Only Settlement Amount (which is the mark-to-market amount) in order to determine whether there would have been any shortfalls between the amounts collected.

confidence level and, at the minimum, mirrors historical price moves, while FICC continued the development effort on the proposed sensitivity based approach to remediate the observed model weaknesses.[23]

As a result of FICC's review of GSD's existing VaR model deficiencies, FICC is proposing to: (1) Replace the full revaluation approach with the sensitivity approach, (2) eliminate the augmented volatility adjustment multiplier, (3) employ the Margin Proxy as an alternative volatility calculation rather than as a minimum volatility calculation, (4) utilize a haircut method for securities that lack sufficient historical data, and (5) establish a minimum calculation, referred to as the VaR Floor (as defined below in subsection 5 below), as the minimum VaR Charge. These proposed changes are described in detail below.

1. Proposed Change To Replace the Full Revaluation Approach With the Sensitivity Approach

FICC is proposing to address GSD's existing VaR model deficiencies by replacing the full revaluation method with the sensitivity approach.[24] The current full revaluation approach uses valuation algorithms to fully reprice each security in a Netting Member's portfolio over a range of historically simulated scenarios. While there are benefits to this method, some of its deficiencies are that it requires significant historical market data inputs, calibration of various model parameters and extensive quantitative support for price simulations.

FICC believes that the proposed sensitivity approach would address these deficiencies because it would leverage external vendor[25] expertise in supplying the market risk attributes, which would then be incorporated by FICC into GSD's model to calculate the VaR Charge. Specifically, FICC would source security-level risk sensitivity data and relevant historical risk factor time series data from an external vendor for all Eligible Securities.

The sensitivity data would be generated by a vendor based on its econometric, risk and pricing models.[26] Because the quality of this data is an important component of calculating the VaR Charge, FICC would conduct independent data checks to verify the accuracy and consistency of the data feed received from the vendor. With respect to the historical risk factor time series data, FICC has evaluated the historical price moves and determined which risk factors primarily explain those price changes, a practice commonly referred to as risk attribution.

FICC's proposal to use the vendor's risk analytics data requires that FICC take steps to mitigate potential model risk. FICC has reviewed a description of the vendor's calculation methodology and the manner in which the market data is used to calibrate the vendor's models. FICC understands and is comfortable with the vendor's controls, governance process and data quality standards. FICC would conduct an independent review of the vendor's release of a new version of its model prior to using it in GSD's proposed sensitivity approach calculation. In the event that the vendor changes its model and methodologies that produce the risk factors and risk sensitivities, FICC would analyze the effect of the proposed changes on GSD's proposed sensitivity approach. Future changes to the QRM Methodology would be subject to a proposed rule change pursuant to Rule 19b–4 (''Rule 19b–4'')[27] of the Act and may be subject to an advance notice filing pursuant to Section 806(e)(1) of the Clearing Supervision Act[28] and Rule 19b–4(n)(1)(I) under the Act.[29] Modifications to the proposed VaR Charge may be subject to a proposed rule change pursuant to Rule 19b–4[30] and/or an advance notice filing pursuant to Section 806(e)(1) of the Clearing Supervision Act[31] and Rule 19b–4(n)(1)(I) under the Act.[32]

Under the proposed approach, a Netting Member's portfolio risk sensitivities would be calculated by FICC as the aggregate of the security level risk sensitivities weighted by the corresponding position market values. More specifically, FICC would look at the historical changes of the chosen risk factors during the look-back period in order to generate risk scenarios to arrive at the market value changes for a given portfolio. A statistical probability distribution would be formed from the portfolio's market value changes, which are then calibrated to cover the projected liquidation losses at a 99% confidence level. The portfolio risk sensitivities and the historical risk factor time series data would then be used by FICC's risk model to calculate the VaR Charge for each Netting Member.

The proposed sensitivity approach differs from the current full revaluation approach mainly in how the market

[23] *See supra* note 18.

[24] GSD's proposed sensitivity approach is similar to the sensitivity approach that FICC's Mortgage-Backed Securities Division (''MBSD'') uses to calculate the VaR Charge for MBSD clearing members. *See* MBSD's Clearing Rules, *available at* DTCC's website, *www.dtcc.com/legal/rules-and-procedures.aspx*. *See* Securities Exchange Act Release No. 79868 (January 24, 2017) 82 FR 8780 (January 30, 2017) (SR–FICC–2016–007) and Securities Exchange Act Release No. 79643 (December 21, 2016), 81 FR 95669 (December 28, 2016) (SR–FICC–2016–801).

[25] FICC does not believe that its engagement of the vendor would present a conflict of interest because the vendor is not an existing Netting Member nor are any of the vendor's affiliates existing Netting Members. To the extent that the vendor or any of its affiliates submit an application to become a Netting Member, FICC will negotiate an appropriate information barrier with the applicant in an effort to prevent a conflict of interest from arising. An affiliate of the vendor currently provides an existing service to FICC; however, this arrangement does not present a conflict of interest because the existing agreement between FICC and the vendor, and the existing agreement between FICC and the vendor's affiliate each contain provisions that limit the sharing of confidential information.

[26] The following risk factors would be incorporated into GSD's proposed sensitivity approach: Key rate, convexity, implied inflation rate, agency spread, mortgage-backed securities spread, volatility, mortgage basis, and time risk factor. These risk factors are defined as follows:

- key rate measures the sensitivity of a price change to changes in interest rates;
- convexity measures the degree of curvature in the price/yield relationship of key interest rates;
- implied inflation rate measures the difference between the yield on an ordinary bond and the yield on an inflation-indexed bond with the same maturity;
- agency spread is yield spread that is added to a benchmark yield curve to discount an Agency bond's cash flows to match its market price;
- mortgage-backed securities spread is the yield spread that is added to a benchmark yield curve to discount a to-be-announced (''TBA'') security's cash flows to match its market price;
- volatility reflects the implied volatility observed from the swaption market to estimate fluctuations in interest rates;
- mortgage basis captures the basis risk between the prevailing mortgage rate and a blended Treasury rate; and
- time risk factor accounts for the time value change (or carry adjustment) over the assumed liquidation period.

The above-referenced risk factors are similar to the risk factors currently utilized in MBSD's sensitivity approach, however, GSD has included other risk factors that are specific to the U.S. Treasury securities, Agency securities and mortgage-backed securities cleared through GSD.

Concerning U.S. Treasury securities and Agency securities, FICC would select the following risk factors: Key rates, convexity, agency spread, implied inflation rates, volatility, and time.

For mortgage-backed securities, each security would be mapped to a corresponding TBA forward contract and FICC would use the risk exposure analytics for the TBA as an estimate for the mortgage-backed security's risk exposure analytics. FICC would use the following risk factors to model a TBA security: Key rates, convexity, mortgage-backed securities spread, volatility, mortgage basis, and time. To account for differences between mortgage-backed securities and their corresponding TBA, FICC would apply an additional basis risk adjustment.

[27] *See* 17 CFR 240.19b–4.

[28] *See* 12 U.S.C. 5465(e)(1).

[29] *See* 17 CFR 240.19b–4(n)(1)(I).

[30] *See* 17 CFR 240.19b–4.

[31] *See* 12 U.S.C. 5465(e)(1).

[32] *See* 17 CFR 240.19b–4(n)(1)(I).

value changes are calculated. The full revaluation approach accounts for changes in market variables and instrument specific characteristics of U.S. Treasury/Agency securities and mortgage-backed securities by incorporating certain historical data to calibrate a pricing model that generates simulated prices. This data is used to create a distribution of returns per each security. By comparison, the proposed sensitivity approach would simulate the market value changes of a Netting Member's portfolio under a given market scenario as the sum of the portfolio risk factor exposures multiplied by the corresponding risk factor movements.

FICC believes that the sensitivity approach would provide three key benefits. First, the sensitivity approach incorporates a broad range of structured risk factors and a Netting Member portfolios' exposure to these risk factors, while the full revaluation approach is calibrated with only security level historical data that is supplemented by the augmented volatility adjustment multiplier. The proposed sensitivity approach integrates both observed risk factor changes and current market conditions to more effectively respond to current market price moves that may not be reflected in the historical price moves combined with the augmented volatility adjustment multiplier. In this regard, FICC has concluded, based on its assessment of the backtesting results of the proposed sensitivity approach and its comparison of those results to the backtesting results of the current full revaluation approach [33] that the proposed sensitivity approach would address the deficiencies observed in the existing model because it would leverage external vendor expertise, which FICC does not need to develop in-house, in supplying the market risk attributes that would then be incorporated by FICC into GSD's model to calculate the VaR Charge. With respect to FICC's review of the backtesting results, FICC believes that the calculation of the VaR Charge using the proposed sensitivity approach would provide better coverage on volatile days while not significantly increasing the overall Clearing Fund.[34] In fact, the calculation of the VaR Charge using the proposed sensitivity approach would produce a VaR Charge amount that is consistent with the current VaR Charge calculation, as supplemented by Margin Proxy.[35]

The second benefit of the proposed sensitivity approach is that it would provide more transparency to Netting Members. Because Netting Members typically use risk factor analysis for their own risk and financial reporting, such Members would have comparable data and analysis to assess the variation in their VaR Charge based on changes in the market value of their portfolios. Thus, Netting Members would be able to simulate the VaR Charge to a closer degree than under the existing full revaluation approach.

The third benefit of the proposed sensitivity approach is that it would provide FICC with the ability to adjust the look-back period that FICC uses for purposes of calculating the VaR Charge. Specifically, FICC would change the look-back period from a front-weighted [36] 1-year look-back (which is currently utilized today) to a 10-year look-back period that is not front-weighted and would include, to the extent applicable, an additional stressed period.[37] The proposed extended look-back period would help to ensure that the historical simulation contains a sufficient number of historical market conditions (including but not limited to stressed market conditions).

While FICC could extend the 1-year look-back period in the existing full revaluation approach to a 10-year look-back period, the performance of the existing model could deteriorate if current market conditions are materially different than indicated in the historical data. Additionally, since the full revaluation approach requires FICC to maintain in-house complex pricing models and mortgage prepayment models, enhancing these models to extend the look-back period to include 10 years of historical data involves significant model development. The sensitivity approach, on the other hand, would leverage external vendor data to incorporate a longer look-back period of 10 years, which would allow the proposed model to capture periods of historical volatility.

In the event FICC observes that the 10-year look-back period does not contain a sufficient number of stressed market conditions, FICC would have the ability to include an additional period of historically observed stressed market conditions to a 10-year look-back period or adjust the length of look-back period. The additional stress period is designed to be a continuous period (typically 1 year). FICC believes that it is appropriate to assess on an annual basis whether an additional stressed period should be included. This assessment, which will only occur annually, would include a review of (1) the largest moves in the dominating market risk factor of the proposed sensitivity approach, (2) the impact analyses resulting from the removal and/or addition of a stressed period, and (3) the backtesting results of the proposed look-back period. As described in the QRM Methodology, approval by DTCC's Model Risk Governance Committee (''MRGC'') and, to the extent necessary, the Management Risk Committee (''MRC'') would be required to determine when to apply an additional period of stressed market conditions to the look-back period and the appropriate historical stressed period to utilize if it is not within the current 10-year period.

2. Proposed Change To Amend the VaR Charge To Eliminate the Augmented Volatility Adjustment Multiplier

As described above, the augmented volatility adjustment multiplier gives GSD the ability to adjust its volatility

[33] The backtesting results compared the aggregate CFR under the current methodology and the aggregate CFR under the proposed methodology to historical returns of end-of-day snapshots of each Netting Member's portfolio for the period May 2016 through October 2017. The CFR backtesting results under the proposed methodology were calculated in two ways for end-of-day portfolios: one set of results included the proposed Blackout Period Exposure Adjustment and the other set of results excluded the proposed Blackout Period Exposure Adjustment.

[34] The CFR backtesting results under the proposed methodology (both with and without Blackout Period Exposure Adjustment) indicate that the proposed methodology provided better overall coverage during the volatile period following the U.S. election than under the current methodology. The CFR Backtesting results under the proposed methodology were also more stable over the May 2016 through October 2017 study period than the CFR backtesting results under the existing methodology.

[35] FICC implemented the Margin Proxy at the end of April 2017. As a result, the CFR backtesting coverage under the current methodology increased in May 2017 and were more consistent with the CFR backtesting results under the proposed methodology from May 2017 through October 2017. Based on data reflected in the impact study, FICC observes that for the period May 1, 2017 to November 30, 2017 an approximate 7% increase in average aggregate AM RFD across all Netting Members.

[36] A front-weighted look-back period assigns more weight to the most recent market observations thus effectively diminishing the value of older market observations. The front-weighted approach is based on the assumption that the most recent price history is more relevant to current market volatility levels.

[37] Under the proposed model, the 10-year look-back period would include the 2008/2009 financial crisis scenario. To the extent that an equally or more stressed market period does not occur when the 2008/2009 financial crisis period is phased out from the 10-year look-back period (*i.e.,* from September 2018 onward), pursuant to the QRM methodology document, FICC would continue to include the 2008/2009 financial crisis scenario in its historical scenarios. However, if an equally or more stressed market period emerges in the future, FICC may choose not to augment its 10-year historical scenarios with those from the 2008/2009 financial crisis.

calculations as needed to improve the performance of its VaR model in periods of market volatility. The augmented volatility adjustment multiplier was designed to mitigate the effect of the 1-year look-back period used in the existing full revaluation approach because it allowed the model to better react to conditions that may not have been within the recent historical one-year period. FICC is proposing to eliminate the augmented volatility adjustment multiplier because it would be no longer necessary given that the proposed sensitivity approach would have a longer look-back period and the ability to include an additional stressed market condition to account for periods of market volatility.

3. Proposed Change To Implement the Margin Proxy as the VaR Charge During a Vendor Data Disruption

a. Vendor Data Disruption

In connection with FICC's proposal to source data for the proposed sensitivity approach, FICC is also proposing procedures that would govern in the event that the vendor fails to provide risk analytics data. If the vendor fails to provide any data or a significant portion of the data timely, FICC would use the most recently available data on the first day that such data disruption occurs. If it is determined that the vendor will resume providing data within five (5) business days, FICC's management would determine whether the VaR Charge should continue to be calculated by using the most recently available data along with an extended look-back period or whether the Margin Proxy should be invoked, subject to the approval of DTCC's Group Chief Risk Officer or his/her designee. If it is determined that the data disruption will extend beyond five (5) business days, the Margin Proxy would be applied as an alternative volatility calculation for the VaR Charge subject to the proposed VaR Floor.[38] FICC's proposed use of the Margin Proxy would be subject to the approval of the MRC followed by notification to FICC's Board Risk Committee. FICC would continue to calculate the Margin Proxy on a daily basis and this calculation would continue to reflect separate calculations for U.S. Treasury/Agency securities and mortgage-backed securities.[39] The Margin Proxy would be subject to monthly performance review by the MRGC. FICC would monitor the performance of the Margin Proxy calculation on a monthly basis to ensure that it could be used in the circumstance described above. Specifically, FICC would monitor each Netting Member's Required Fund Deposit and the aggregate Clearing Fund requirements versus the requirements calculated by Margin Proxy. FICC would also backtest the Margin Proxy results versus the three-day profit and loss based on actual market price moves. If FICC observes material differences between the Margin Proxy calculations and the aggregate Clearing Fund requirement calculated using the proposed sensitivity approach, or if the Margin Proxy's backtesting results do not meet FICC's 99% confidence level, FICC management may recommend remedial actions to the MRGC, and to the extent necessary the MRC, such as increasing the look-back period and/or applying an appropriate historical stressed period to the Margin Proxy calibration.

As noted above, FICC intends to source certain sensitivity data and risk factor data from a vendor. FICC's Quantitative Risk Management, Vendor Risk Management, and Information Technology teams have conducted due diligence of the vendor in order to evaluate its control framework for managing key risks. FICC's due diligence included an assessment of the vendor's technology risk, business continuity, regulatory compliance, and privacy controls. FICC has existing policies and procedures for data management that includes market data and analytical data provided by vendors. These policies and procedures do not have to be amended in connection with this proposed rule change. FICC also has tools in place to assess the quality of the data that it receives from vendors.

b. Regulation SCI Implications

Rule 1001(c)(1) of Regulation Systems Compliance and Integrity (''SCI'') requires FICC to establish, maintain, and enforce reasonably designed written policies and procedures that include the criteria for identifying responsible SCI personnel, the designation and documentation of responsible SCI personnel, and escalation procedures to quickly inform responsible SCI personnel of potential SCI events.[40] Further, pursuant to Rule 1002 of Regulation SCI, each responsible SCI personnel determines when there is a reasonable basis to conclude that a SCI event has occurred, which will trigger certain obligations of a SCI entity with respect to such SCI events.[41] FICC has existing policies and procedures that reflect established criteria that must be used by responsible SCI personnel to determine whether a disruption to, or significantly downgrade of, the normal operation of FICC's risk management system has occurred as defined under Regulation SCI. These policies and procedures do not have to be amended in connection with this proposed rule change. In the event that the vendor fails to provide the requisite risk analytics data, the responsible SCI personnel would determine whether a SCI event has occurred, and FICC would fulfill its obligations with respect to the SCI event.

4. Proposed Change To Utilize a Haircut Method To Measure the Risk Exposure of Securities That Lack Historical Data

Occasionally, portfolios contain classes of securities that reflect market price changes that are not consistently related to historical risk factors. The value of these securities is often uncertain because the securities' market volume varies widely, thus the price histories are limited. Because the volume and price information for such securities is not robust, a historical simulation approach would not generate VaR Charge amounts that adequately reflect the risk profile of such securities. Currently, GSD Rule 4 provides that FICC may use a historic index volatility model to calculate the VaR Charge for these classes of securities.[42] FICC is proposing to amend GSD Rule 4 to utilize a haircut method based on a historic index volatility model for any security that lacks sufficient historical

[38] The proposed VaR Floor is defined below in subsection B.5.—*Proposed change to amend the VaR Charge calculation to establish a VaR Floor.*

[39] Currently, GSD conducts separate calculations in order to cover the historical market prices of U.S. Treasury/Agency securities and mortgage-backed securities, respectively, because the historical price changes of these asset classes are different as a result of market factors such as credit spreads and prepayment risk. Separate calculations also provide FICC with the ability to monitor the performance of each asset class individually. Each security in a Netting Member's Margin Portfolio is mapped to a separate benchmark based on the security's asset class and maturity. All securities within each benchmark are then aggregated into a net exposure. FICC then applies an applicable haircut to the net exposure per benchmark to determine the net price risk for each benchmark. Finally, FICC determines the asset class price risk (''Asset Class Price Risk'') for U.S. Treasury/Agency securities and mortgage-backed securities benchmarks separately by aggregating the respective net price risk. For the U.S. Treasury benchmarks, the calculation includes a correlation adjustment to provide risk diversification across tenor buckets that has been historically observed across the U.S. Treasury benchmarks. The Margin Proxy is the sum of the U.S. Treasury/Agency securities and mortgage-backed securities Asset Class Price Risk. No changes are being proposed to this calculation.

[40] *See* 17 CFR 242.1001(c)(1).

[41] *See* 17 CFR 242.1002.

[42] *See* GSD Rule 4, *supra* note 4.

data to be incorporated into the proposed sensitivity approach.

FICC believes that the proposal to implement a haircut method for securities that lack sufficient historical information would allow FICC to use appropriate market data to estimate a margin at a 99% confident level, thus helping to ensure that sufficient margin would be calculated for portfolios that contain these securities. FICC would continue to manage the market risk of clearing these securities by conducting analysis on the type of securities that cannot be processed by the proposed VaR model and engaging in periodic reviews of the haircuts used for calculating margin for these types of securities.

FICC is proposing to calculate the VaR Charge for these securities by utilizing a haircut approach based on a market benchmark with a similar risk profile as the related security. The proposed haircut approach would be calculated separately for U.S. Treasury/Agency securities (other than (x) treasury floating-rate notes and (y) term repo rate volatility for Term Repo Transactions and Forward-Starting Repo Transactions (including term and forward-starting GCF Repo Transactions))[43] and mortgage-backed securities.

Specifically, each security in a Netting Member's portfolio would be mapped to a respective benchmark based on the security's asset class and remaining maturity, then all securities within each benchmark would be aggregated into a net exposure. FICC would apply an applicable haircut to the net exposure per benchmark to determine the net price risk for each benchmark. Finally, the net price risk would be aggregated across all benchmarks (but separately for U.S. Treasury/Agency securities and mortgage-backed securities) and a correlation adjustment[44] would be applied to securities mapped to the U.S. Treasury benchmarks to provide risk diversification across tenor buckets that were historically observed.

5. Proposed Change To Amend the VaR Charge Calculation To Establish a VaR Floor

FICC is proposing to amend the existing calculation of the VaR Charge to include a minimum amount, which would be referred to as the ''VaR Floor.'' The proposed VaR Floor would be a calculated amount that would be used as the VaR Charge when the sum of the amounts calculated by the proposed sensitivity approach and haircut method is less than the proposed VaR Floor. FICC's proposal to establish a VaR Floor seeks to address the risk that the proposed VaR model calculates a VaR Charge that is erroneously low where the gross market value of unsettled positions in the Netting Member's portfolio is high and the cost of liquidation in the event of a Member default could also be high. This would be likely to occur when the proposed VaR model applies substantial risk offsets among long and short positions in different classes of securities that have a high degree of historical price correlation. Because this high degree of historical price correlation may not apply in future changing market conditions,[45] FICC believes that it would be prudent to apply a VaR Floor that is based upon the market value of the gross unsettled positions in the Netting Member's portfolio in order to protect FICC against such risk in the event that FICC is required to liquidate a large Netting Member's portfolio in stressed market conditions.

The VaR Floor would be calculated as the sum of the following two components: (1) A U.S. Treasury/Agency bond margin floor and (2) a mortgage-backed securities margin floor. The U.S. Treasury/Agency bond margin floor would be calculated by mapping each U.S. Treasury/Agency security to a tenor bucket, then multiplying the gross positions of each tenor bucket by its bond floor rate, and summing the results. The bond floor rate of each tenor bucket would be a fraction (which would be initially set at 10%) of an index-based haircut rate for such tenor bucket. The mortgage-backed securities margin floor would be calculated by multiplying the gross market value of the total value of mortgage-backed securities in a Netting Member's portfolio by a designated amount, referred to as the pool floor rate, (which would be initially set at 0.05%).[46] GSD would evaluate the appropriateness of the proposed initial floor rates (*e.g.,* the 10% of the benchmark haircut rate for U.S. Treasury/Agency securities and 0.05% for mortgage-backed securities) at least annually based on backtesting performance and risk tolerance considerations.

6. Mitigating Risks of Concentrated Positions

For the reasons described above, FICC believes that the proposed changes to GSD's VaR Charge calculation would allow it to better measure and mitigate the risks presented within Netting Members' portfolios.

One of the risks presented by unsettled positions concentrated in an asset class is that FICC may not be able to liquidate or hedge the unsettled positions of a defaulted Netting Member in the assumed timeframe at the market price in the event of such Netting Member's default. Because FICC relies on external market data in connection with monitoring exposures to its Netting Members, the market data may not reflect the market impact transaction costs associated with the potential liquidation as the concentration risk of an unsettled position increases. However, FICC believes that, through the proposed changes and through existing risk management measures,[47] it would be able to effectively measure and mitigate risks presented when a Netting Member's unsettled positions are concentrated in a particular security.

FICC will continue to evaluate its exposures to these risks. Any future proposed changes to the margin

[43] GSD is not proposing any changes to its current approach to calculating the VaR Charge for floating rate notes. Currently, GSD uses a haircut approach with a constant discount margin movement scenario. The discount margin movement scenario is based on the current market condition of the floating rate note price movements. This amount plus the calculated discount margin sensitivity of each floating rate note issue's market price plus the formula provided by the U.S. Department of Treasury equals the haircut of the floating rate note portion of a Netting Member's portfolio. GSD is also not proposing any change to its current approach to calculating the VaR Charge for repo interest volatility, which is based on internally constructed repo interest rate indices.

[44] The correlation adjustment is based on 3-day returns during a 10-year look-back. It reflects the average amount that the 3-day returns of each benchmark moves in relation to one another. The correlation adjustment would only be applied for U.S. Treasury and Agency indices with maturities greater than 1 year.

[45] For example, and without limitation, certain securities may have highly correlated historical price returns, but if future market conditions were to substantially change, these historical correlations could break down, leading to model-generated offsets that would not adequately capture a portfolio's risk.

[46] For example, assume the pool floor rate is set to 0.05% and the bond floor rate is set to 10% of haircut rates. Further assume that a Netting Member has a portfolio with gross positions of $2 billion in mortgage-backed securities and gross positions of U.S. Treasury/Agency securities that fall into two tenor buckets—$2 billion in tenor bucket ''A'' and $3 billion in tenor bucket ''B.'' If the haircut rate for tenor bucket ''A'' is 1% and the haircut rate for tenor bucket ''B'' is 2%, then the bond floor rate would be 0.1% and 0.2%, respectively. Therefore, the resulting VaR Floor would be $9 million (*i.e.,* ([0.05%]*[$2 billion]) + [0.1%]*[$2 billion]) + ([0.2%]*[$3 billion])). If the VaR model charge is less than $9 million, then the VaR Floor calculation of $9 million would be set as the VaR Charge.

[47] For example, pursuant to existing authority under GSD Rule 4, FICC has the discretion to calculate an additional amount (''special charge'') applicable to a Margin Portfolio as determined by FICC from time to time in view of market conditions and other financial and operational capabilities of the Netting Member. FICC shall make any such determination based on such factors as FICC determines to be appropriate from time to time. *See* GSD Rule 4, *supra* note 4.

methodology to address such risks would be subject to a separate proposed rule change pursuant Rule 19b–4 of the Act,[48] and/or an advance notice pursuant to Section 806(e)(1) of the Clearing Supervision Act[49] and the rules thereunder.

C. Proposed Change To Establish the Blackout Period Exposure Adjustment As a Component to the Required Fund Deposit Calculation

FICC is proposing to add a new component to the Required Fund Deposit calculation that would be applied to the VaR Charge for all GCF Counterparties with GCF Repo Transactions collateralized with mortgage-backed securities during the monthly Blackout Period (the ''Blackout Period Exposure Adjustment''). FICC is proposing this new component because it would better protect FICC and its Netting Members from losses that could result from overstated values of mortgage-backed securities pledged as collateral for GCF Repo Transactions during the Blackout Period.

The proposed Blackout Period Exposure Adjustment would be in the form of a charge that is added to the VaR Charge or a credit that would reduce the VaR Charge. The proposed Blackout Period Exposure Adjustment would be calculated by (1) projecting an average pay-down rate for the government sponsored enterprises (Fannie Mae and Freddie Mac) and the Government National Mortgage Association (Ginnie Mae), respectively, then (2) multiplying the projected pay-down rate[50] by the net positions of mortgage-backed securities in the related program, and (3) summing the results from each program. Because the projected pay-down rate would be an average of the weighted averages of pay-down rates for all active mortgage pools of the related program during the three most recent preceding months, it is possible that the proposed Blackout Period Exposure Adjustment could overestimate the amount for a GCF Counterparty with a portfolio that primarily includes slower paying mortgage-backed securities or underestimate the amount for a GCF Counterparty with a portfolio that primarily includes faster paying mortgage-backed securities. However, FICC believes that projecting the pay-down rate separately for each program and weighting the results by recently active pools would reduce instances of large under/over estimation. FICC would continue to monitor the realized pay-down against FICC's weighted average pay-down rates and its vendor's projected pay-down rates as part of the model performance monitoring. Further, in the event that a GCF Counterparty continues to experience backtesting deficiencies, FICC would apply a Backtesting Charge, which as described in section F below, that would be amended to consider backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period.[51]

The proposed Blackout Period Exposure Adjustment would only be imposed during the Blackout Period and it would be applied as of the morning Clearing Fund call on the Record Date through and including the intraday Clearing Fund call on the Factor Date, or until the Pool Factors[52] have been updated to reflect the current month's Pool Factors in the GCF Clearing Agent Bank's collateral reports.

D. Proposed Change To Eliminate the Existing Blackout Period Exposure Charge

FICC would eliminate the existing Blackout Period Exposure Charge[53] because the proposed Blackout Period Exposure Adjustment (which is described in section C above) would be applied to *all* GCF Counterparties with GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period. The existing Blackout Period Exposure Charge, on the other hand, *only* applies to GCF Counterparties that have two or more backtesting deficiencies during the Blackout Period and whose overall 12-month trailing backtesting coverage falls below the 99% coverage target.[54] FICC believes that the Blackout Period Exposure Charge would no longer be necessary because the applicability of the proposed Blackout Period Exposure Adjustment would better estimate potential changes to the GCF Repo Transactions and help to ensure that GCF Counterparties' with GCF Repo Transactions collateralized with mortgage-backed securities maintain a backtesting coverage above the 99% confidence level. Further, in the event that a GCF Counterparty continues to experience backtesting deficiencies, FICC would apply a Backtesting Charge, which as described in section F below, that would be amended to consider backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period.[55]

E. Proposed Change To Eliminate the Coverage Charge Component From the Required Fund Deposit Calculation

FICC is proposing to eliminate the Coverage Charge component from GSD's Required Fund Deposit calculation.[56] The Coverage Charge component is based on historical portfolio activity, which may not be indicative of a Netting Member's current risk profile, but was determined by FICC to be appropriate to address potential shortfalls in margin charges under the current VaR model. FICC is proposing to eliminate the Coverage Component because its analysis indicates that the sensitivity approach would provide overall better margin coverage.

As part of the development and assessment of the proposed VaR Charge, FICC backtested the model's performance and analyzed the impact of the margin changes. Results of the analysis indicated that the proposed sensitivity approach would be more responsive to changing market dynamics and a Netting Member's portfolio composition coverage than the existing VaR model that utilizes the full revaluation approach. The backtesting analysis also demonstrated that the proposed sensitivity approach would provide sufficient margin coverage on a

[48] *See* 17 CFR 240.19b–4.

[49] *See* 12 U.S.C. 5465(e)(1).

[50] GSD would calculate the projected average pay-down rates each month using historical pool factor pay-down rates that are weighted by historical positions during each of the prior three months. Specifically, the projected pay-down rate for a current Blackout Period would be an average of the weighted averages of pay-down rates for all active mortgage pools of the related program during the three most recent preceding months.

[51] The proposed changes to the Backtesting Charge are described below is section F—*Proposed change to amend the Backtesting Charge to (i) include backtesting deficiencies attributed to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period and (ii) give GSD the authority to assess a Backtesting Charge on an intraday basis.*

[52] Pursuant to the GSD Rules, the term ''Pool Factor'' means, with respect to the Blackout Period, the percentage of the initial principal that remains outstanding on the mortgage loan pool underlying a mortgage-backed security, as published by the government-sponsored entity that is the issuer of such security. *See* GSD Rule 1, *supra* note 4.

[53] Pursuant to the GSD Rules, FICC imposes a Blackout Period Exposure Charge when FICC determines, based on prior backtesting deficiencies of a GCF Counterparty's Required Fund Deposit, that the GCF Counterparty may experience a deficiency due to reductions in the notional value of the mortgage-backed securities used by such GCF Counterparty to collateralize its GCF Repo trading activity that occur during the monthly Blackout Period. *See* GSD Rules 1 and 4, *supra* note 4.

[54] *See* GSD Rules 1 and 4, *supra* note 4.

[55] The proposed changes to the Backtesting Charge are described below is section F—*Proposed change to amend the Backtesting Charge to (i) include backtesting deficiencies attributed to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period and (ii) give GSD the authority to assess a Backtesting Charge on an intraday basis.*

[56] *See* GSD Rules 1 and 4, *supra* note 4.

standalone basis. Additionally, in the event that FICC observes unexpected deficiencies in the backtesting of a Netting Member's Required Fund Deposit, the Backtesting Charge would apply.[57] Given the above, FICC believes the Coverage Charge would no longer be necessary.

F. Proposed Change To Amend the Backtesting Charge To (i) Include Backtesting Deficiencies Attributable to GCF Repo Transactions Collateralized With Mortgage-Backed Securities During the Blackout Period and (ii) Give GSD the Authority To Assess a Backtesting Charge on an Intraday Basis

FICC is proposing to amend the Backtesting Charge to (i) include backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period and (ii) give GSD the authority to assess a Backtesting Charge on an intraday basis.

(i) Proposed Change To Amend the Backtesting Charge To Include Backtesting Deficiencies Attributable to GCF Repo Transactions Collateralized With Mortgage-Backed Securities During the Blackout Period

FICC is proposing to amend the Backtesting Charge to provide that this charge would be applied to a GCF Counterparty that experiences backtesting deficiencies that are attributed to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period. Currently, Backtesting Charges are not applied to GCF Counterparties with collateralized mortgage-backed securities during the Blackout Period because such counterparties may be subject to a Blackout Period Exposure Charge. However, now that FICC is proposing to eliminate the Blackout Period Exposure Charge, FICC is proposing to amend the applicability of the Backtesting Charge in the circumstances described above.

(ii) Proposed Change To Give GSD the Authority To Assess a Backtesting Charge on an Intraday Basis

FICC is also proposing to amend the Backtesting Charge to provide that this charge may be assessed if a Netting Member is experiencing backtesting deficiencies during the trading day (*i.e.,* intraday) because of such Netting Member's large fluctuations of intraday trading activities. A Backtesting Charge that is imposed intraday would be referred to as a ''Intraday Backtesting Charge.'' The Intraday Backtesting Charge would be assessed on an intraday basis and it would increase a Netting Member's Required Fund Deposit to help ensure that its intraday backtesting coverage achieves the 99% confidence level.

The proposed assessment of the Intraday Backtesting Charge differs from the existing assessment of the Backtesting Charge because the existing assessment is based on the backtesting results of a Netting Member's PM RFD versus the historical returns of such Netting Member's portfolio at the end of the trading day while the proposed Intraday Backtesting Charge would be based on the most recent Required Fund Deposit amount that was collected from a Netting Member versus the historical returns of such Netting Member's portfolio intraday.

In an effort to differentiate the proposed Intraday Backtesting Charge from the existing Backtesting Charge, FICC is proposing to change the name of the existing Backtesting Charge to ''Regular Backtesting Charge.'' The Intraday Backtesting Charge and the Regular Backtesting Charge would collectively be referred to as the Backtesting Charge.

Calculation and Assessment of Intraday Backtesting Charges

FICC would use a snapshot of each Netting Member's portfolio during the trading day,[58] and compare each Netting Member's AM RFD with the simulated liquidation gains/losses using an intraday snapshot of the actual positions in the Netting Member's portfolio, and the actual historical security returns. FICC would review portfolios with intraday backtesting deficiencies that bring the results for that Netting Member below the 99% confidence level (*i.e.,* greater than two intraday backtesting deficiency days in a rolling twelve-month period) and determine whether there is an identifiable cause of ongoing repeat backtesting deficiencies. FICC would also evaluate whether multiple Netting Members are experiencing backtesting deficiencies due to similar underlying reasons.

As is the case with the existing Backtesting Charge (which would be referred to as the ''Regular Backtesting Charge''), the proposed Intraday Backtesting Charge would be assessed on Netting Members with portfolios that experience at least three intraday backtesting deficiencies over the prior 12-month period. The proposed Intraday Backtesting Charge would generally equal a Netting Member's third largest historical intraday backtesting deficiency because FICC believes that an Intraday Backtesting Charge equal to the third largest historical intraday backtesting deficiency would bring the affected Netting Member's historically observed intraday backtesting coverage above the 99% confidence level.

FICC would have the discretion to adjust the Intraday Backtesting Charge to an amount that is more appropriate for maintaining such Netting Member's intraday backtesting results above the 99% coverage threshold.[59]

In the event that FICC determines that an Intraday Backtesting Charge should apply in the circumstances described above, FICC would notify the affected Netting Member prior to its assessment of the charge. As is the case with the existing application of the Backtesting Charge, FICC would notify Netting Members on or around the 25th calendar day of the month.

The proposed Intraday Backtesting Charge would be applied to the affected Netting Member's Required Fund Deposit on a daily basis for a one-month period. FICC would review the assessed Intraday Backtesting Charge on a monthly basis to determine if the charge is still applicable and that the amount charged continues to provide appropriate coverage. In the event that an affected Netting Member's trailing 12-month intraday backtesting coverage exceeds 99% (without taking into account historically imposed Intraday Backtesting Charges), the Intraday Backtesting Charge would be removed.

[57] Similar to the Coverage Charge, the purpose of the Backtesting Charge is to address potential shortfalls in margin charges, however, the Coverage Charge considers the backtesting results of only the VaR Charge (including the augmented volatility adjustment multiplier) and mark-to-market.

[58] The snapshot would occur once a day. The timing of the snapshot would be subject to change based upon market conditions and/or settlement activity. This snapshot would be taken at the same time for all Netting Members. All positions that have settled would be excluded. FICC would take additional intraday snapshots and/or change the time of the intraday snapshot based upon market conditions. FICC would include the positions from the start-of-day plus any additional positions up to that time.

[59] For example, FICC may consider whether the affected Netting Member would be likely to experience future intraday backtesting deficiencies, the estimated size of such deficiencies, material differences in the three largest intraday backtesting deficiencies observed over the prior 12-month period, variabilities in its net settlement activity subsequent to GSD's collection of the AM RFD, seasonality in observed intraday backtesting deficiencies and observed market price volatility in excess of its historical VaR Charge.

G. Proposed Change to the Excess Capital Premium Calculation for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members

FICC is proposing to move to a net capital measure for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members that would align the Excess Capital Premium for such Members to a measure that is consistent with the equity capital measure that is used for Bank Netting Members in the Excess Capital Premium calculation.

Currently, the Excess Capital Premium is determined based on the amount that a Netting Member's Required Fund Deposit exceeds its Excess Capital.[60] Only Netting Members that are brokers or dealers registered under Section 15 of the Act are required to report Excess Net Capital figures to FICC while other Netting Members report net capital or equity capital. If a Netting Member is not a broker/dealer, FICC would use net capital or equity capital, as applicable (based on the type of regulation that such Netting Member is subject to) in order to calculate its Excess Capital Premium.

FICC is proposing this change because of the Commission's amendments to Rule 15c3–1 (the ''Net Capital Rule''), which were adopted in 2013.[61] The amendments are designed to promote a broker/dealer's capital quality and require the maintenance of ''net capital'' (*i.e.,* capital in excess of liabilities) in specified amounts as determined by the type of business conducted. The Net Capital Rule is designed to ensure the availability of funds and assets (including securities) in the event that a broker/dealer's liquidation becomes necessary. The Net Capital Rule represents a net worth perspective, which is adjusted by unrealized profit or loss, deferred tax provisions, and certain liabilities as detailed in the rule. It also includes deductions and offsets, and requires that a broker/dealer demonstrate compliance with the Net Capital Rule including maintaining sufficient net capital at all times (including intraday).

FICC believes that the Net Capital Rule is an effective process of separating liquid and illiquid assets, and computing a broker/dealer's regulatory net capital that should replace GSD's existing practice of using Excess Net Capital (which is the difference between the Net Capital and the minimum regulatory Net Capital) as the basis for the Excess Capital Premium.

H. GSD's Existing Calculation and Assessment of Intraday Supplemental Fund Deposit Amounts

Separate and apart from the AM RFD and the PM RFD, the GSD Rules give FICC the existing authority to collect Intraday Supplemental Fund Deposits from Netting Members.[62] Through this filing, FICC is providing transparency with respect to GSD's existing calculation of Intraday Supplemental Fund Deposit amounts.

Pursuant to the GSD Rules, the Intraday Supplemental Fund Deposits is determined based on GSD's observations of a Netting Member's simulated VaR Charge as it is re-calculated throughout the trading day based on the open positions of such Member's portfolio at designated times (the ''Intraday VaR Charge'').[63] FICC is proposing to provide transparency with respect to its existing authority to calculate and assess the Intraday Supplemental Fund Deposit as described in further detail below.

The Intraday Supplemental Fund Deposit is designed to mitigate exposure to GSD that results from large fluctuations in a Netting Member's portfolio due to new and settled trade activities that are not otherwise covered by a Netting Member's recently collected Required Fund Deposit. FICC determines whether to assess an Intraday Supplemental Fund Deposit by tracking three criteria (each, a ''Parameter Break'') for each Netting Member. The first Parameter Break evaluates whether a Netting Member's Intraday VaR Charge equals or exceeds a set dollar amount (as determined by FICC from time to time) when compared to the VaR Charge that was included in the most recently collected Required Fund Deposit including, any subsequently collected Intraday Supplemental Fund Deposit (the ''Dollar Threshold''). The second Parameter Break evaluates whether the Intraday VaR Charge equals or exceeds a percentage increase (as determined by FICC from time to time) of the VaR Charge that was included in the most recently collected Required Fund Deposit including, if applicable, any subsequently collected Intraday Supplemental Fund Deposit (the ''Percentage Threshold''). The third Parameter Break evaluates whether a Netting Member is experiencing backtesting results below the 99% confidence level (the ''Coverage Target'').

(a) The Dollar Threshold

The purpose of the Dollar Threshold is to identify Netting Members with additional risk exposures that represent a substantial portion of the Clearing Fund. FICC believes these Netting Members pose an increased risk of loss to GSD because the coverage provided by the Clearing Fund (which is designed to cover the aggregate losses of all Netting Members' portfolios) would be substantially impacted by large exposures. In other words, in the event that a Netting Member's Required Fund Deposit is not sufficient to satisfy losses to GSD caused by the liquidation of the defaulted Netting Member's portfolio, FICC will use the Clearing Fund to satisfy such losses. However, because the Clearing Fund must be available to satisfy potential losses that may arise from any Netting Member's defaults, GSD will be exposed to a significant risk of loss if a defaulted Netting Member's additional risk exposure accounted for a substantial portion of the Clearing Fund.

The Dollar Threshold is set to an amount that would help to ensure that the aggregate additional risk exposure of all Netting Members does not exceed 5% of the Clearing Fund. FICC believes that the availability of at least 95% of the Clearing Fund to satisfy all other liquidation losses caused by a defaulted Netting Member is sufficient to mitigate risks posed to FICC by such losses.

Currently, the Dollar Threshold equals a change in a Netting Member's Intraday VaR Charge that equals or exceeds $1,000,000 when compared to the VaR Charge that was included in the most recently collected Required Fund Deposit including, if applicable, any subsequently collected Intraday Supplemental Fund Deposit. On an annual basis, FICC assesses the sufficiency of the Dollar Threshold, and may adjust the Dollar Threshold if FICC determines that an adjustment is necessary to provide GSD with reasonable coverage.

[60] Pursuant to the GSD Rules, the term ''Excess Capital'' means Excess Net Capital, net assets or equity capital as applicable, to a Netting Member based on its type of regulation. *See* GSD Rule 1, *supra* note 4.

[61] *See* 17 CFR 240.15c3–1. Securities Exchange Act Release No. 34–70072 (July 30, 2013), 78 FR 51823 (August 21, 2013) (File No. S7–08–07).

[62] As described above in section *A.—The Required Fund Deposit and Clearing Fund Calculation Overview,* GSD calculates and collects each Netting Member's Required Fund Deposit twice each business day. The AM RFD is collected at 9:30 a.m. (E.T.) and is comprised of a VaR Charge that is based on each Netting Member's portfolio at the end of the trading day. The PM RFD is collected at 2:45 p.m. and is comprised of a VaR Charge that is based on a snapshot of each Netting Member's portfolio collected at noon and, if applicable, an Intraday Supplemental Fund Deposit collected after noon.

[63] *See* Rule 4 Section 2a, *supra* note 4.

(b) The Percentage Threshold

The purpose of the Percentage Threshold is to identify Netting Members with Intraday VaR Charge amounts that reflect significant changes when such amounts are compared to the VaR Charge that was included as a component in such Netting Member's most recently collected Required Fund Deposit. FICC believes that these Netting Members pose an increased risk of loss to GSD because the most recently collected VaR Charge (which is designed to cover estimated losses to a portfolio over a three-day liquidation period at least 99% of the time) may not adequately reflect a Netting Member's portfolio with such Netting Member's significant intraday changes in additional risk exposure. Thus, in the event that the Netting Member defaults during the trading day the Netting Member's most recently collected Required Fund Deposit may be insufficient to cover the liquidation of its portfolio within a three-day liquidation period.

Currently, the Percentage Threshold is equal to a Netting Member's Intraday VaR Charge that equals or exceeds 100% of the most recently calculated VaR Charge included in the most recently collected Required Fund Deposit including, if applicable, any subsequently collected Intraday Supplemental Fund Deposit. On an annual basis, FICC assesses the sufficiency of the Percentage Threshold and may adjust the Percentage Threshold if it determines that such adjustment is necessary to provide GSD with reasonable coverage.

(c) The Coverage Target

The purpose of the Coverage Target is to identify Netting Members with backtesting results [64] below the 99% confidence level (*i.e.,* greater than two deficiency days in a rolling 12-month period) as reported in the most current month. FICC believes that these Netting Members pose an increased risk of loss to FICC because their backtesting deficiencies demonstrate that GSD' risk-based margin model has not performed as expected based on the Netting Member's trading activity. Thus, the most recently collected Required Fund Deposit might be insufficient to cover the liquidation of a Netting Member's portfolio within a three-day liquidation period in the event that such Member defaults during the trading day.

[64] The referenced backtesting results would only reflect the Backtesting Charge if such charge is collected in the Required Fund Deposit.

(d) Assessment and Collection of the Intraday Supplemental Fund Deposits

In the event that FICC determines that a Netting Member's additional risk exposure breaches all three Parameter Breaks, FICC will assess an Intraday Supplemental Fund Deposit. Should FICC determine that certain market conditions exist [65] FICC would impose an Intraday Supplemental Fund Deposit if a Netting Member's Intraday VaR Charge breaches the Dollar Amount threshold and the Percentage Threshold notwithstanding the fact that the Coverage Target has not been breached by such Netting Member.[66] In addition, during such market conditions, the Dollar Threshold and Percentage Threshold may be reduced if FICC determines a Netting Member's portfolios may present relatively greater risks to FICC since the most recently collected Required Fund Deposit. Any such reduction will not cause the Dollar Threshold to be less than $250,000 and the Percentage Threshold to be less than 5%.

FICC has the discretion to waive or change [67] Intraday Supplemental Fund Deposit amounts if it determines that a Netting Member's additional risk exposure and/or breach of a Parameter Break does not accurately reflect GSD's exposure to the fluctuations in the Netting Member's portfolio.[68] Given that there are numerous factors that could result in a Netting Member's additional risk exposure and/or breach of a Parameter Break, FICC believes that it is important to maintain such discretion in order to help ensure that the Intraday Supplemental Fund Deposit is imposed only on Netting Members with additional risk exposures that pose a significant level of risk to FICC.

[65] Examples include but are not limited to (i) sudden swings in an equity index or (ii) movements in the U.S. Treasury yields and mortgage-backed securities spreads that are outside of historically observed market moves.

[66] In certain market condition, a Netting Member's backtesting coverage may not accurately reflect the risks posed by such Netting Member's portfolio. Therefore, FICC imposes the Intraday Supplemental Fund on Netting Members that breach the Dollar Threshold and Percentage Threshold, despite the fact that such Member may not have breached the Coverage Target during certain market conditions.

[67] FICC will not reduce the Intraday Supplemental Fund Deposit if such reduction will cause the Netting Member's most recently collected Required Fund Deposit to decrease. In addition, FICC will not increase the Intraday VaR Charge to an amount that is two times more than a Netting Member's most recently collected Required Fund Deposit.

[68] For example, a Netting Member's breach of the Coverage Target could be due to a shortened backtesting look-back period and/or large position fluctuations caused by trading errors.

I. Delayed Implementation of the Proposed Rule Change

This proposed rule change would become operative 45 business days after the later date of the Commission's approval of this proposed rule change and its notice of no objection to FICC's related advance notice filing (the ''Advance Notice Filing'').[69] The delayed implementation is designed to give Netting Members the opportunity to assess the impact that the proposed rule change would have on their Required Fund Deposit.

Prior to the effective date, FICC would add a legend to the GSD Rules to state that the specified changes to the GSD Rules are approved but not yet operative, and to provide the date such approved changes would become operative. The legend would also include the file numbers of the approved proposed rule change and Advance Notice Filing and would state that once operative, the legend would automatically be removed from the GSD Rules.

J. Description of the Proposed Changes to the Text of the GSD Rules

1. Proposed Changes to GSD Rule 1 (Definitions)

FICC is proposing to amend the term ''Backtesting Charge'' to provide that a GCF Counterparty's backtesting deficiencies attributable to collateralized mortgage-backed securities during the Blackout Period would be considered in FICC's assessment of the applicability of the charge. FICC is also proposing to amend the definition of the term ''Backtesting Charge'' to provide that an Intraday Backtesting Charge may be assessed based on the backtesting results of a Netting Member's intraday portfolio. In order to differentiate the Intraday Backtesting charge from the existing application of the Backtesting Charge, the existing charge would be referred to as the ''Regular Backtesting Charge.'' As a result of this proposed change, FICC would be permitted to assess an Intraday Backtesting Charge based on a Netting Member's intraday portfolio and a Regular Backtesting Charge based on a Netting Member's end of day portfolio. As a result of this proposed change, FICC's calculation of the Intraday Backtesting Charge and the Regular Backtesting Charge could include deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period.

[69] *See supra* note 3.

FICC is proposing to add the new defined term ''Blackout Period Exposure Adjustment'' to define a new component in the Required Fund Deposit calculation. This component would apply to all GCF Counterparties with exposure to mortgage-backed securities in their portfolio during the Blackout Period.

FICC is proposing to delete the term ''Blackout Period Exposure Charge.'' This component would no longer be necessary because the proposed Blackout Period Exposure Adjustment would be applied to all GCF Counterparties with exposure to mortgage-backed securities in their portfolio.

FICC is proposing to delete the term ''Coverage Charge'' because this component would be eliminated from the Required Fund Deposit calculation.

FICC is proposing to delete the term ''Excess Capital'' because FICC is proposing to add the new defined term ''Netting Member Capital.''

FICC is proposing to amend the definition of the term ''Excess Capital Ratio'' to reflect the replacement of ''Excess Capital'' with ''Netting Member Capital.''

FICC is proposing to change the term ''Intraday Supplemental Clearing Fund Deposit'' to ''Intraday Supplemental Fund Deposit'' because the latter is consistent with the term that is reflected in GSD Rule 4.

FICC is proposing to amend the term ''Margin Proxy'' to reflect that the Margin Proxy would be used as an alternative volatility calculation.

FICC is proposing to add the new defined term ''Netting Member Capital'' to reflect the change to the Net Capital for Broker Netting Members', Inter-Broker Dealer Netting Members' and Dealer Netting Members' calculation of the Excess Capital Ratio.

FICC is proposing to amend the definition of the term ''VaR Charge'' to establish that (1) the Margin Proxy would be utilized as an alternative volatility calculation in the event that the requisite data used to employ the sensitivity approach is unavailable, and (2) a VaR Floor would be utilized as the VaR Charge in the event that the proposed model based approach yields an amount that is lower than the VaR Floor.

2. Proposed Changes to GSD Rule 4 (Clearing Fund and Loss Allocation)

Proposed Changes to Rule 4 Section 1b

FICC is proposing to eliminate the reference to ''Coverage Charge'' because this component would no longer be included in the Required Fund Deposit calculation.

FICC is proposing to add the ''Blackout Period Exposure Adjustment'' because this would be a new component included in the Required Fund Deposit calculation.

FICC is proposing to eliminate the reference to ''Blackout Period Exposure Charge'' because this component would no longer be included in the Required Fund Deposit calculation.

FICC is proposing to renumber this section in order to accommodate the above-referenced proposed changes.

FICC is proposing to define ''Net Unsettled Position'' because it is a defined term in GSD Rule 1.

FICC is proposing to amend this section to state that a haircut method would be utilized based on the historic index volatility model for the purposes of calculating the VaR Charge for classes of securities that cannot be handled by the VaR model's methodology.

FICC is proposing to delete the paragraph relating to the Margin Proxy because the Margin Proxy would no longer be used to supplement the VaR Charge.

K. Description of the QRM Methodology

The QRM Methodology document provides the methodology by which FICC would calculate the VaR Charge with the proposed sensitivity approach as well as other components of the Required Fund Deposit calculation. The QRM Methodology document specifies (i) the model inputs, parameters, assumptions and qualitative adjustments, (ii) the calculation used to generate Required Fund Deposit amounts, (iii) additional calculations used for benchmarking and monitoring purposes, (iv) theoretical analysis, (v) the process by which the VaR methodology was developed as well as its application and limitations, (vi) internal business requirements associated with the implementation and ongoing monitoring of the VaR methodology, (vii) the model change management process and governance framework (which includes the escalation process for adding a stressed period to the VaR calculation), (viii) the haircut methodology, (ix) the Blackout Period Exposure Adjustment calculations, (x) intraday margin calculation, and (xi) the Margin Proxy calculation.

2. Statutory Basis

FICC believes that the proposed changes, as described in Item II.(A)1. above, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[70] and Rules 17Ad–22(e)(4)(i) and (e)(6)(i), (ii), (iii), (iv) and (v), each promulgated under the Act,[71] for the reasons described below.

Section 17A(b)(3)(F)[72] of the Act as cited above requires, in part, that the rules of a clearing agency be designed ''to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.'' As described in detail in Item II.(A)1. above, the proposal consists of changes to the calculation of GSD's Required Fund Deposit. FICC believes that these changes would be designed to assure the safeguarding of securities and funds that are in the custody or control of FICC or for which it is responsible because the proposed changes would enable FICC to better limit its credit exposure to Netting Members arising out of the activity in their portfolios. The proposed changes would collectively work to help ensure that FICC calculates and collects adequate margin from its Netting Members. Specifically, (1) the proposed change to utilize the sensitivity approach would better enable FICC to limit its exposure to Netting Members because the sensitivity approach would incorporate a broad range of structured risk factors as well as an extended look-back period that would calculate better margin coverage for FICC, (2) the proposed use of the Margin Proxy as an alternative volatility calculation would better enable FICC to limit its exposure to Netting Members because it would help to ensure that FICC has a margin methodology in place that effectively measures FICC's exposure to Netting Members in the event that a vendor data disruption reduces the reliability of the margin amount calculated by the proposed sensitivity-based VaR model, (3) the proposed haircut method would better enable FICC to limit its exposure to Netting Members because it would provide a better assessment of the risks associated with classes of securities with inadequate historical pricing data, (4) the proposed VaR Floor would better enable FICC to limit its exposure to Netting Members because it would help to ensure that each Netting Member has a minimum VaR Charge in the event that the proposed VaR model utilizing the sensitivity approach yields too low a VaR Charge for such portfolios, (5) the proposal to add the proposed Blackout

[70] 15 U.S.C. 78q–1(b)(3)(F).

[71] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i), (ii), (iii), (iv) and (v).

[72] 15 U.S.C. 78q–1(b)(3)(F).

Period Exposure Adjustment as a new component and the proposal to amend the Backtesting Charge to consider backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period would better enable FICC to limit its exposure to Netting Members because these changes would help to ensure that FICC collects sufficient margin from GCF Counterparties with GCF Repo Transactions collateralized mortgage-backed securities with risk characteristics that are not effectively captured by the Required Fund Deposit calculation during the Blackout Period, (6) the proposed Intraday Backtesting Charge would better enable FICC to limit its exposure to Netting Members because it would help to ensure that FICC collects appropriate margin from Netting Members that have backtesting deficiencies during the trading day due to large fluctuations of intraday trading activity that could pose risk to FICC in the event that such Netting Members default during the trading day, and (7) the proposed change to the Excess Capital Premium calculation would better enable FICC to limit its exposure to Netting Members because it would help to ensure that FICC does not unnecessarily increase its calculation and collection of Required Fund Deposit amounts for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members. Finally, FICC's proposal to eliminate the Blackout Period Exposure Charge, Coverage Charge and augmented volatility adjustment multiplier would enable FICC to eliminate components that do not measure risk as accurately as the proposed and existing risk management measures, as described above.

By enabling FICC to better limit its exposure to Netting Members, the proposed changes described in Item II.(A)1. are designed to ensure that, in the event of a Netting Member default, FICC's operations would not be disrupted and non-defaulting Netting Members would not be exposed to losses they cannot anticipate or control. In this way, the proposed rules are designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible and therefore consistent with Section 17A(b)(3)(F) of the Act.

In addition, FICC believes that the proposed changes are consistent with Rules 17Ad–22(e)(4)(i) and (e)(6)(i), (ii), (iii), (iv) and (v) of the Act.[73]

Rule 17Ad–22(e)(4)(i) under the Act[74] requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.

FICC believes that the proposed changes described in Item II.(A)1. above enhance FICC's ability to identify, measure, monitor and manage its credit exposures to Netting Members and those exposures arising from its payment, clearing, and settlement processes because the proposed changes would collectively help to ensure that FICC maintains sufficient financial resources to cover its credit exposure to each Netting Member with a high degree of confidence.

Because each of the proposed changes to FICC's Required Fund Deposit calculation would provide FICC with a more effective measure of the risks that these calculations were designed to assess, the proposed changes would permit FICC to more effectively identify, measure, monitor and manage its exposures to market price risk, and would enable it to better limit its exposure to potential losses from Netting Member default. Specifically, the proposed changes described in Item II.(A)1. above are designed to help ensure that GSD appropriately calculates and collects margin to cover its credit exposure to each Netting Member with a high degree of confidence because (1) the proposed change to utilize the sensitivity approach would provide better margin coverage for FICC, (2) the proposed use of the Margin Proxy as an alternative volatility calculation would help to ensure that FICC has a margin methodology in place that effectively measures FICC's exposure to Netting Members in the event that a vendor data disruption reduces the reliability of the margin amount calculated by the proposed sensitivity-based VaR model, (3) the proposed haircut method would provide a better assessment of the risks associated with classes of securities with inadequate historical pricing data, (4) the proposed VaR Floor would limit FICC's credit exposures to Netting Members in the event that the proposed VaR model utilizing the sensitivity approach yields too low a VaR Charge for such portfolios, (5) the proposal eliminates the Blackout Period Exposure, Coverage Charge and augmented volatility adjustment multiplier because FICC should not maintain elements of the prior model that would unnecessarily increase Netting Members' Required Fund Deposits, (6) the proposal to add the proposed Blackout Period Exposure Adjustment as a new component would limit FICC's credit exposures during the Blackout Period caused by GCF Repo Transactions collateralized mortgage-backed securities with risk characteristics that are not effectively captured by the Required Fund Deposit calculation, (7) the proposal to amend the Backtesting Charge to consider backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period would help to ensure that FICC could cover credit exposure to GCF Counterparties, (8) the proposed Intraday Backtesting Charge would help to ensure that FICC collects appropriate margin from Netting Members that have backtesting deficiencies during the trading day due to large fluctuations of intraday trading activity that could pose risk to FICC in the event that such Netting Members defaults during the trading day, and (9) the proposed change to the Excess Capital Premium calculation would help to ensure that FICC does not unnecessarily increase its calculation and collection of Required Fund Deposit amounts for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members.

The proposed changes would continue to be subject to performance reviews by FICC. In the event that FICC's backtesting process reveals that the VaR Charge, Required Fund Deposit amounts and/or the Clearing Fund do not meet FICC's 99% confidence level, FICC would review its margin methodologies and assess whether any changes should be considered. Therefore, FICC believes the proposed changes are consistent with the requirements of Rule 17Ad–22(e)(4)(i) of the Act cited above.

Rule 17Ad–22(e)(6)(i) under the Act[75] requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes

[73] *See* 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i), (ii), (iii), (iv) and (v).

[74] *See* 17 CFR 240.17Ad–22(e)(4)(i).

[75] *See* 17 CFR 240.17Ad–22(e)(6)(i).

of each relevant product, portfolio, and market.

FICC believes that the proposed changes referenced above in the second paragraph of this section (each of which have been described in detail in Item II.(A)1. above) are consistent with Rule 17Ad–22(e)(6)(i) of the Act cited above because the proposed changes would help to ensure that FICC calculates and collects adequate Required Fund Deposit amounts, and that each Netting Member's amount is commensurate with the risks and particular attributes of each relevant product, portfolio, and market. Specifically, (1) the proposed change to utilize the sensitivity approach would provide better margin coverage for FICC, (2) the proposed use of the Margin Proxy as an alternative volatility calculation would help to ensure that FICC has a margin methodology in place that effectively measures FICC's exposure to Netting Members in the event that a vendor data disruption reduces the reliability of the margin amount calculated by the proposed sensitivity-based VaR model, (3) the proposed haircut method would provide a better assessment of the risks associated with classes of securities with inadequate historical pricing data, (4) the proposed VaR Floor would limit FICC's credit exposures to Netting Members in the event that the proposed VaR model utilizing the sensitivity approach yields too low a VaR Charge for such portfolios, (5) the proposal eliminates the Blackout Period Exposure, Coverage Charge and augmented volatility adjustment multiplier because FICC should not maintain elements of the prior model that would unnecessarily increase Netting Members' Required Fund Deposits, (6) the proposal to add the proposed Blackout Period Exposure Adjustment as a new component would limit FICC's credit exposures during the Blackout Period caused by GCF Repo Transactions collateralized mortgage-backed securities with risk characteristics that are not effectively captured by the Required Fund Deposit calculation, (7) the proposal to amend the Backtesting Charge to consider backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period would help to ensure that FICC could cover credit exposure to GCF Counterparties, (8) the proposed Intraday Backtesting Charge would help to ensure that FICC collects appropriate margin from Netting Members that have backtesting deficiencies during the trading day due to large fluctuations of intraday trading activity that could pose risk to FICC in the event that such Netting Members defaults during the trading day, and (9) the proposed change to the Excess Capital Premium calculation would help to ensure that FICC does not unnecessarily increase its calculation and collection of Required Fund Deposit amounts for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members.

Therefore, FICC believes that the proposed changes are consistent with the requirements of Rule 17Ad–22(e)(6)(i) cited above because the collective proposed rule changes would consider, and produce margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.

Rule 17Ad–22(e)(6)(ii) under the Act [76] requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, marks participant positions to market and collects margin, including variation margin or equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances.

FICC believes that the proposed changes are consistent Rule 17Ad–22(e)(6)(ii) of the Act cited above because the proposed Intraday Backtesting Charge would help to ensure that FICC collects appropriate margin from Netting Members that have backtesting deficiencies during the trading day due to large fluctuations of intraday trading activity that could pose risk to FICC in the event that such Netting Members defaults during the trading day. Therefore, FICC believes that the proposed Intraday Backtesting Charge would provide GSD with the authority and operational capacity to make intraday margin calls in a manner that is consistent with Rule 17Ad–22(e)(6)(ii) of the Act cited above.

Rule 17Ad–22(e)(6)(iii) under the Act [77] requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.

FICC believes that the proposed changes are consistent Rule 17Ad–22(e)(6)(iii) of the Act cited above because the proposed changes are designed to calculate Required Fund Deposit amounts that are sufficient to cover FICC's potential future exposure to Netting Members in the interval between the last margin collection and the close out of positions following a participant default. Specifically, (1) the proposed change to utilize the sensitivity approach would provide better margin coverage for FICC, (2) the proposed use of the Margin Proxy as an alternative volatility calculation would help to ensure that FICC has a margin methodology in place that effectively measures FICC's exposure to Netting Members in the event that a vendor data disruption reduces the reliability of the margin amount calculated by the proposed sensitivity-based VaR model, (3) the proposed haircut method would provide a better assessment of the risks associated with classes of securities with inadequate historical pricing data, (4) the proposed VaR Floor would limit FICC's credit exposures to Netting Members in the event that the proposed VaR model utilizing the sensitivity approach yields too low a VaR Charge for such portfolios, (5) the proposal eliminates the Blackout Period Exposure, Coverage Charge and augmented volatility adjustment multiplier because FICC should not maintain elements of the prior model that would unnecessarily increase Netting Members' Required Fund Deposits, (6) the proposal to add the proposed Blackout Period Exposure Adjustment as a new component would limit FICC's credit exposures during the Blackout Period caused by GCF Repo Transactions collateralized mortgage-backed securities with risk characteristics that are not effectively captured by the Required Fund Deposit calculation, (7) the proposal to amend the Backtesting Charge to consider backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period would help to ensure that FICC could cover credit exposure to GCF Counterparties, (8) the proposed Intraday Backtesting Charge would help to ensure that FICC collects appropriate margin from Netting Members that have backtesting deficiencies during the trading day due to large fluctuations of intraday trading activity that could pose risk to FICC in the event that such Netting Members defaults during the trading day, and (9)

[76] *See* 17 CFR 240.17Ad–22(e)(6)(ii).

[77] *See* 17 CFR 240.17Ad–22(e)(6)(iii).

the proposed change to the Excess Capital Premium calculation would help to ensure that FICC does not unnecessarily increase its calculation and collection of Required Fund Deposit amounts for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members.

Therefore, FICC believes that the proposed changes would be consistent with Rule 17Ad–22(e)(6)(iii) of the Act cited above because the proposed rules changes would collectively be designed to help ensure that FICC calculates Required Fund Deposit amounts that are sufficient to cover FICC's potential future exposure to Netting Members in the interval between the last margin collection and the close out of positions following a participant default.

Rule 17Ad–22(e)(6)(iv) under the Act [78] requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses reliable sources of timely price data and procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.

FICC believes that the proposed change to implement a haircut method for securities that lack sufficient historical information is consistent with Rule 17Ad–22(e)(6)(iv) of the Act cited above because the proposed change would allow FICC to use appropriate market data to estimate an appropriate margin at a 99% confidence level, thus helping to ensure that sufficient margin would be calculated for portfolios that contain these securities.

Rule 17Ad–22(e)(6)(v) under the Act [79] requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.

FICC believes that the proposed changes to implement a haircut method for securities that lack sufficient historical information is consistent with Rule 17Ad–22(e)(6)(v) of the Act cited above because the haircut method would allow FICC to use appropriate market data to estimate an appropriate margin at a 99% confident level, thus helping to ensure that sufficient margin would be calculated for portfolios that contain these securities.

FICC also believes that its proposal to replace the Blackout Period Exposure Charge with the Blackout Period Exposure Adjustment is consistent with Rule 17Ad–22(e)(6)(v) of the Act cited above because the proposed Blackout Period Exposure Adjustment would limit FICC's credit exposures during the Blackout Period caused by portfolios with collateralized mortgage-backed securities with risk characteristics that are not effectively captured by the Required Fund Deposit calculation.

Therefore, FICC believes that the proposed haircut method and the proposed Blackout Period Exposure Adjustment are consistent with Rule 17Ad–22(e)(6)(v) of the Act cited above because the proposed changes appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the implementation of the risk management changes that comprise the proposed rule change related to the Required Fund Deposit calculations would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[80]

FICC believes that the proposed rule change could have an impact upon competition because implementation of the risk management changes that comprise the proposed rule change would produce changes in the daily calculations of Netting Members' Required Fund Deposits, and thus will either increase or decrease Netting Members' Required Fund Deposits for each day when compared to the calculation of the Required Fund Deposit methodology that FICC currently uses. The proposed changes to the calculation of the Required Fund Deposit could both burden competition and promote competition, at different points in time, by altering Netting Members' Required Fund Deposits. At any point in time when the proposed change to the calculation of the Required Fund Deposit produces relatively greater increases in Required Fund Deposits for Netting Members that have lower operating margins or higher costs of capital than other Netting Members, the proposed change would burden competition. Conversely, when such Netting Members' Required Fund Deposits are reduced because of the proposed change to the calculation of the Required Fund Deposit, the change may promote competition. Because (i) all Netting Members are expected to experience both increases and decreases in Required Fund Deposits compared to the amounts that would be calculated using the existing methodology, depending on each Netting Member's particular portfolio and market conditions, and (ii) no particular category of Netting Member is expected to experience materially greater increases or decreases than other Netting Members, FICC believes that the proposed change will not impose a significant burden on competition.

FICC believes that any burden on competition that is created by the proposed rule change is necessary in furtherance of the Act because, as described above, the GSD Rules must be designed to assure the safeguarding of securities and funds that are in its custody or control or for which it is responsible.[81] The proposed rule change would support FICC's compliance with Rules 17Ad–22(e)(4)(i) and (e)(6)(i), (ii), (iii), (iv) and (v) under the Act [82] for the reasons explained above in Item II.(A)2.

FICC believes that the risk management changes that comprise the proposed rule change are appropriate in furtherance of the Act because they enhance FICC's methodology for calculating margin requirements by implementing an improved risk-based approach that provides better coverage for FICC with respect to its credit exposures to Netting Members while not significantly increasing Netting Members' Required Fund Deposits when averaged across time. The financial impact of and risk management benefit of each change is further described below.

Impact of the Proposed Sensitivity Approach

Utilization of the proposed sensitivity approach to calculate the VaR Charge rather than the existing full revaluation approach with the augmented volatility multiplier is expected, generally, to generate higher VaR Charges during volatile market periods and lower VaR Charges during normal market conditions. While the degree of impact depends upon each Netting Member's particular portfolio, Netting Members that submit similar portfolios will have similar impacts to their VaR Charges during both volatile and normal market conditions. To the extent that a Netting Member's portfolio may pose a greater

[78] *See* 17 CFR 240.17Ad–22(e)(6)(iv).

[79] *See* 17 CFR 240.17Ad–22(e)(6)(v).

[80] *See* 15 U.S.C. 78q–1(b)(3)(I).

[81] *See* 15 U.S.C. 78q–1(b)(3)(F).

[82] *See* 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i), (ii), (iii), (iv) and (v).

risk to FICC than would have been captured under the full revaluation approach with the augmented volatility multiplier, such Netting Member will have higher VaR Charges, particularly during volatile market conditions. FICC believes that any burden on competition that derives from the proposed sensitivity approach is necessary in furtherance of the Act because the proposed approach corrects the deficiencies in the existing model and it provides better margin coverage for FICC. Additionally, FICC believes that any burden on competition that derives from the proposed sensitivity approach is appropriate in furtherance of the Act because the proposed approach would produce VaR Charges that are consistent with the current VaR Charge calculation as supplemented by Margin Proxy.

FICC performed an impact study of the portfolio level VaR Charge under the proposed methodology for the period January 3, 2013 through December 30, 2016 and backtested the performance of the CFR that includes the proposed sensitivity approach from May 2016 through October 2017. This analysis revealed that, under the proposed sensitivity approach, the portfolio level backtesting coverage of the VaR Charge is similar to the existing VaR Charge supplemented by Margin Proxy for the majority of Netting Members, but would have increased for 24% of the Netting Members' portfolios. The rolling 12 months coverage of CFR for May 2016 through October 2017 using the proposed methodology was more stable than the current methodology and remained above 99% for the entire observation period. Implementing the proposed sensitivity approach improves the risk-based model that FICC employs to set margin requirements and better limits FICC's credit exposures to participants.

Impact of the Margin Proxy as a Proposed Alternative Methodology

The Margin Proxy would be used as an alternative methodology to calculate the VaR Charge in the event that the data needed to operate the VaR model becomes unavailable for an extended period of time. Invocation of the Margin Proxy could produce slightly higher VaR Charges for Netting Members when compared to the proposed VaR model because the Margin Proxy could reduce certain risk offsets among portfolio positions. FICC believes that any burden on competition that derives from the proposed use of the Margin Proxy is necessary in furtherance of the Act because the Margin Proxy would help to ensure that FICC has a margin methodology in place that effectively measures FICC's exposure to Netting Members in the event that a vendor data disruption reduces the reliability of the margin amount calculated by the proposed sensitivity-based VaR model. FICC believes that any burden on competition that derives from the proposed use of the Margin Proxy is appropriate in furtherance of the Act because (1) FICC's ongoing monitoring of the Margin Proxy would help to ensure that the Margin Proxy calculates VaR Charges that are reasonably consistent with the sensitivity approach and (2) FICC expects that the Margin Proxy would rarely be invoked.

Impact of the Proposed Change To Utilize a Haircut Method To Measure the Risk Exposure of Securities That Lack Historical Data

The proposed haircut method would be applied to classes of securities that cannot be processed by the proposed VaR model because such securities have inadequate historical pricing data. The proposed haircut approach could produce higher VaR Charges for Netting Members with portfolios with these classes of securities. FICC believes that any burden on competition that derives from implementing the proposed haircut method is necessary in furtherance of the Act because the proposed haircut method provides a better assessment of the risks associated with these securities and therefore would enhance FICC's ability to limit its credit exposures to participants. FICC believes that any burden on competition that derives from implementing the proposed haircut method is appropriate in furtherance of the Act because FICC would continue to manage the market risk of clearing these securities by conducting analysis on the type of securities that cannot be processed by the proposed VaR model and engaging in periodic reviews of the haircuts used for calculating margin for these types of securities.

Impact of the Proposed VaR Floor

The proposed VaR Floor would establish a minimum VaR Charge for Netting Members that have portfolios with long and short positions in different classes of securities that have a high degree of historical price correlation. Implementing the VaR Floor will likely increase Required Fund Deposits for such Netting Members because such portfolios might generate a lower VaR Charge using the sensitivity calculations alone. FICC believes that any burden on competition that derives from the proposed VaR Floor is necessary in furtherance of the Act because the proposed VaR Floor would enhance FICC's ability to limit its credit exposures to participants in the event that the proposed VaR model utilizing the sensitivity approach yields too low a VaR Charge for such portfolios. FICC believes that any burden on competition that derives from the proposed VaR Floor is appropriate in furtherance of the Act because the proposed VaR Floor would help to ensure that FICC has sufficient margin in the event that FICC is required to liquidate or hedge a large securities portfolio in stressed market conditions.

Impact of the Proposed Blackout Period Exposure Adjustment

The proposed Blackout Period Exposure Adjustment would be applied, in the form of a credit or charge, to the VaR Charge for GCF Counterparties with GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period. The proposed Blackout Period Exposure Adjustment is expected to either increase or decrease a GCF Counterparty's Required Fund Deposit amount if such participant has GCF Repo Transactions collateralized with mortgage-backed securities during the monthly Blackout Period. While the degree of the impact would depend upon the amount and type of mortgage-backed securities used to collateralize GCF Repo Transactions, GCF Counterparties that have similar amounts of mortgage-backed securities are likely to have a similar Blackout Period Exposure Adjustment. Nevertheless, GCF Counterparties that are assessed a Blackout Period Exposure Adjustment may experience a lower Required Fund Deposit in the future because such GCF Counterparties would be less likely to experience backtesting deficiencies and therefore may not be subject to a Backtesting Charge. As noted above, the proposed Blackout Period Exposure Adjustment would be calculated by (1) projecting an average pay-down rate for the government sponsored enterprises (Fannie Mae and Freddie Mac) and the Government National Mortgage Association (Ginnie Mae), respectively, then (2) multiplying the projected pay-down rate [83] by the net positions of mortgage-backed securities in the related program, and (3) summing the results from each program. Because the projected pay-down rate

[83] GSD would calculate the projected average pay-down rates each month using historical pool factor pay-down rates that are weighted by historical positions during each of the prior three months. Specifically, the projected pay-down rate for a current Blackout Period would be an average of the weighted averages of pay-down rates for all active mortgage pools of the related program during the three most recent preceding months.

would be an average of the weighted averages of pay-down rates for all active mortgage pools of the related program during the three most recent preceding months, it is possible that the proposed Blackout Period Exposure Adjustment could overestimate the amount for a GCF Counterparty with a portfolio that primarily includes slower paying mortgage-backed securities or underestimate the amount for a GCF Counterparty with a portfolio that primarily includes faster paying mortgage-backed securities. FICC believes that any burden on competition that derives from the proposed Blackout Period Exposure Adjustment is necessary in furtherance of the Act because the proposed Blackout Period Exposure Adjustment would effectively measure and limit FICC's credit exposures during the Blackout Period caused by portfolios with collateralized mortgage-backed securities with risk characteristics that are not effectively captured by the existing components of the Required Fund Deposit calculation. FICC believes that any burden on competition that derives from the proposed Blackout Period Exposure Adjustment is appropriate in furtherance of the Act because the proposed Blackout Period Exposure Adjustment is designed to help ensure that GCF Counterparties with collateralized mortgage-backed securities maintain a backtesting coverage above the 99% confidence threshold. Further, FICC would continue to monitor the realized pay-down against FICC's weighted average pay-down rates and its vendor's projected pay-down rates as part of the model performance monitoring. Further, in the event that a GCF Counterparty continues to experience backtesting deficiencies, FICC would apply a Backtesting Charge, which as described in section F above, would be amended to consider backtesting deficiencies attributable to GCF Repo Transactions during the Blackout Period.

Impact of the Proposed Elimination of the Blackout Period Exposure Charge, Coverage Charge and Augmented Volatility Adjustment Multiplier

The proposed removal of the Blackout Period Exposure Charge, Coverage Charge and augmented volatility adjustment multiplier would reduce Netting Members' Required Fund Deposits by eliminating charges that are no longer necessary following implementation of the other changes that comprise the proposed rule change. FICC believes that any burden on competition that derives from eliminating the Coverage Charge and augmented volatility adjustment multiplier are necessary in furtherance of the Act because the proposed changes support FICC's implementation of policies and procedures reasonably designed to limit its credit exposures to participants and use of risk-based models to set margin requirements. FICC believes that any burden on competition that derives from eliminating the Coverage Charge and augmented volatility adjustment multiplier are appropriate in furtherance of the Act because FICC should not maintain elements of the prior model that would unnecessarily increase Netting Members' Required Fund Deposits.

Impact of the Proposed Change To Amend the Backtesting Charge To Include Backtesting Deficiencies That Are Attributable to GCF Repo Transactions Collateralized With Mortgage-Backed Securities During Blackout Period

The proposed change to amend the Backtesting Charge to include backtesting deficiencies attributable to GCF Repo Transactions collateralized with mortgage-backed securities during the Blackout Period could increase a GCF Counterparty's Required Fund Deposit amount if the third largest deficiency amount used to calculate the Backtesting Charge is larger during the Blackout Period. FICC believes that any burden on competition that derives from the proposed change is necessary in furtherance of the Act because the proposed change would help FICC to maintain its credit exposures to such GCF Repo Participant at a confidence level of at least 99%. FICC believes that any burden on competition that derives from the proposed change is appropriate in furtherance of the Act because the proposed change would help to ensure that FICC collects appropriate margin from a GCF Counterparty with exposures due to decreases in the collateral value of mortgage-backed securities during the monthly Blackout Period that would not be captured by the proposed Blackout Period Exposure Adjustment. FICC believes that imposing the proposed Backtesting Charge during the Blackout Period protects FICC against the risk that a defaulted GCF Counterparty's portfolio contains exposure to GCF Repo Transactions collateralized with mortgage-backed securities that would not be adequately captured by the GCF Counterparty's Required Fund Deposit.

Impact of the Proposed Change To Assess an Intraday Backtesting Charge

The proposed change to assess an Intraday Backtesting Charge would increase Netting Members' Required Fund Deposits because FICC would apply an Intraday Backtesting Charge in the event that a Netting Member experiences multiple intraday backtesting deficiencies. FICC believes that any burden on competition that derives from the proposed change to assess an Intraday Backtesting Charge is necessary in furtherance of the Act because the proposed Intraday Backtesting Charge would help to ensure that FICC collects appropriate margin from Netting Members that have backtesting deficiencies during the trading day due to large fluctuations of intraday trading activity that could pose risk to FICC in the event that such Netting Members defaults during the trading day. FICC believes that any burden on competition that derives from the proposed change is appropriate in furtherance of the Act because the Intraday Backtesting Charge would be commensurate with the portfolio risk that Netting Members clear through GSD.

Impact of the Proposed Modification of the Excess Capital Premium for a Broker Netting Member, Inter-Dealer Broker Netting Member or Dealer Netting Member

The proposed change to the Excess Capital Premium formula for a Broker Netting Member, Inter-Dealer Broker Netting Member and Dealer Netting Member may reduce such Member' Required Fund Deposits by using Net Capital in GSD's calculation of the Excess Capital Premium. FICC believes that this impact reduces the burden on competition for Broker Netting Members, Inter-Dealer Broker Netting Members and Dealer Netting Members because FICC will use a similar capital measure for broker/dealer and banks when determining whether an Excess Capital Premium should be applied to their Required Fund Deposit calculation. FICC believes that any burden on competition that derives from modifying the Excess Capital Premium is necessary in furtherance of the Act because the proposed changes support FICC's implementation of policies and procedures reasonably designed to limit its credit exposures to participants and use of risk-based models to set margin requirements. FICC believes change in the burden on competition that derives from modification of the Excess Capital Premium is appropriate in furtherance of the Act because FICC should not

maintain elements that would unnecessarily increase some Netting Members' Required Fund Deposits.

For the reasons stated above, FICC believes that any burden on competition that derives from risk management changes is necessary and appropriate in furtherance of FICC's obligations under the Act and Rules 17Ad–22(b)(i) and (e)(i), (ii), (iii), (iv) and (v) thereunder.[84]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule changes have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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–FICC–2018–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2018–001. 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 website (*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 website 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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2018–001 and should be submitted on or before February 22, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[85]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–01949 Filed 1–31–18; 8:45 am]

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[84] *See* 17 CFR 240.17Ad–22(b) and (e)(i), (ii), (iii), (iv) and (v).

[85] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82592; File No. SR–NYSEArca–2017–99]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the Hartford Schroders Tax-Aware Bond ETF Under NYSE Arca Rule 8.600–E

January 26, 2018.

I. Introduction

On October 11, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Hartford Schroders Tax-Aware Bond ETF (''Fund'') under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on October 31, 2017.[3] On November 21, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed. On December 14, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On January 18, 2018, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No. 1.[6] The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81944 (October 25, 2017), 82 FR 50461.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 82323, 82 FR 60455 (December 20, 2017). The Commission designated January 29, 2018 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] In Amendment No. 2, the Exchange: (1) Stated that State Street Bank and Trust Company will serve as transfer agent and custodian for the Fund; (2) removed certain conditions on the definition of the ''fire wall'' between the Sub-Adviser and its broker-dealer subsidiary; (3) represented that personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio; (4) clarified that cash and cash equivalents are included in the Fund's principal

publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposal, as Modified by Amendment No. 2[8]

The Exchange proposes to list and trade Shares of the Fund under NYSE Arca Rule 8.600–E, which governs the listing and trading of Managed Fund Shares. The Fund is a series of the Hartford Funds Exchange-Traded Trust (''Trust''), which is registered with the Commission as an open-end management investment company.[9]

Hartford Funds Management Company, LLC (''Manager'') will be the investment manager to the Fund, and Schroder Investment Management North America Inc. (''Sub-Adviser'') will be the sub-adviser to the Fund and perform the daily investment of the assets for the Fund.[10] ALPS Distributors, Inc. will be the principal underwriter to the Fund. State Street Bank and Trust Company will serve as transfer agent and custodian for the Fund.

According to the Exchange, the Fund will seek total return on an after-tax basis and will seek to achieve its investment objective by investing in a diversified portfolio of fixed income debt instruments of varying maturities.[11]

A. Principal Investments

Under normal market conditions,[12] the Fund will invest principally (that is, more than 50% of its assets) in the U.S. dollar-denominated fixed income debt instruments described below, and in cash and cash equivalents.[13]

The fixed income debt instruments in which the Fund may invest as part of its principal investment strategy are securities issued or guaranteed by the U.S. government and its agencies, government-sponsored enterprise securities, corporate bonds, agency mortgage-backed securities (including ''to be announced'' or ''TBA'' transactions), agency asset-backed securities (''ABS''), ''Municipal Securities'' (as described below), sovereign debt, and debt securities issued by supranational organizations. They may pay fixed, variable, or floating interest rates.

The Fund may invest in the following Municipal Securities: General obligation bonds; revenue (or limited obligation) bonds; private activity (or industrial development) bonds; bonds that are collateralized with agency and/or treasury securities; municipal notes; municipal lease obligations; and municipal inverse floaters.

B. Other Investments

While the Fund, under normal market conditions, will invest principally in the securities and financial instruments described above, the Fund may invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in U.S. and foreign non-agency ABS, which are securities backed by a pool of some underlying asset, including but not limited to home equity loans, installment sale contracts, credit card receivables, or other assets.

The Fund may invest in U.S. and foreign non-agency mortgage-related securities. Mortgage-related securities may be composed of one or more classes and may be structured either as pass-through securities or collateralized debt obligations (which include collateralized bond obligations and collateralized loan obligations).

The Fund may invest in U.S. exchange-traded closed-end funds and exchange-traded funds (''ETFs'').[14] The Fund also may invest in non-exchange-traded securities of other registered investment companies (*i.e.,* mutual funds).

The Fund may engage actively in transactions in derivatives (futures, options, swaps, and forward rate agreements) as described below. The Fund will normally use derivatives to supplement the effective management of its duration profile, to gain exposure to particular securities or markets, in connection with hedging transactions, or for purposes of efficient portfolio management, including managing cash flows or as part of the Fund's risk management process.

The Fund may invest in U.S and foreign exchange-traded and over-the counter (''OTC'') put and call options. The Fund may engage in options transactions on any security, index, or instrument in which it may invest.

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investments and specified that for purposes of this filing, cash equivalents are the short-term instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600–E; (5) provided additional information regarding the Fund's non-principal investments; (6) specified that restricted securities are included in the Fund's non-principal investments; (7) added an explanation regarding the Manager's belief that the creation and redemption cutoff time (1:00 p.m. Eastern Time) will not have a material impact on an authorized participant's arbitrage opportunities with respect to the Fund; (8) added a statement that the Manager represents that, to the extent the Trust effects the creation or redemption of Shares wholly or partially in cash, such transactions will be effected in the same manner for all authorized participants; (9) specified additional quantitative information relating to the Shares that will be included on the Fund's website; (10) supplemented the description of the availability of information for the Fund's investments; (11) defined the term ''periods of high cash inflows or outflows'' as used in this filing; (12) added a statement that the Manager represents that the fixed income weight of the Fund's portfolio, other than holdings in Municipal Securities, will meet the generic listing requirements of Commentary .01(b) to NYSE Arca Rule 8.600–E; (13) stated that the Manager will be the ''Reporting Authority'' for purposes of NYSE Arca Rule 8.600–E(d)(2)(B)(ii); and (14) made other clarifications, corrections, and technical changes. Amendment No. 2 is available at *https://www.sec.gov/comments/sr-nysearca-2017-99/nysearca201799-2935844-161848.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] For more information regarding the Fund and the Shares, *see* Amendment No. 2, *supra* note 6.

[9] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On June 26, 2017, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund (File Nos. 333–215165 and 811–23222). The Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 32454 (January 27, 2017) (File No. 812–13828–01).

[10] According to the Exchange, neither the Manager nor the Sub-Adviser is registered as a broker-dealer, but each is affiliated with a broker-dealer. The Exchange states that the Manager and Sub-Adviser each has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio. In the event (a) the Manager or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the applicable adviser or sub-adviser will implement and maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

[11] In seeking to achieve the Fund's investment objective, the Sub-Adviser will employ a tax-aware investing strategy that attempts to realize total return for shareholders, primarily in the form of current income and price appreciation, by balancing investment considerations and tax considerations.

[12] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[13] For purposes of this filing, cash equivalents are the short-term instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600–E.

[14] For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). The ETFs all will be listed and traded in the U.S. on registered exchanges. The Fund will not invest in inverse or leveraged (*e.g.,* +2x, −2x) index ETFs.

The Fund may invest in U.S and foreign exchange-traded and OTC currency options.

The Fund may invest in U.S. and foreign exchange-traded futures contracts and options on futures contracts with respect to equity and debt securities, foreign currencies, aggregates of equity and debt securities (aggregates are composites of equity or debt securities that are not tied to a commonly known index), interest rates, indices, commodities, and other financial instruments.

The Fund may enter into the following U.S exchange-traded, foreign exchange-traded, and OTC swaps: Commodity swaps; total return swaps; currency swaps; credit default swaps (''CDS''); CDS index swaps (''CDX''); asset swaps; inflation swaps; event-linked swaps; interest rate swaps; swaps on specific securities or indices; and swaps on rates (such as mortgage prepayment rates). The Fund may invest in U.S. exchange-traded and OTC municipal derivatives (*i.e.,* municipal credit default swaps, municipal market data derivatives, rate locks, caps, collars, and floors). The Fund may also enter into options on swap agreements (''swaptions'').[15]

The Fund may enter into forward rate agreements.

The Fund may invest in inflation-protected debt securities.

The Fund may invest in convertible and nonconvertible preferred stock traded OTC or on U.S. and non-U.S. exchanges.

The Fund may hold restricted securities, which are securities that cannot be offered for public resale unless registered under the applicable securities laws or that have a contractual restriction that prohibits or limits their resale.[16]

With respect to any of the Fund's investments, the Fund may invest in when-issued and delayed delivery securities and forward commitments.

C. Investment Restrictions

The Exchange represents that the Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

With respect to the Fund's investments in Municipal Securities, under normal market conditions, except for periods of high cash inflows or outflows,[17] the Fund will satisfy the following criteria:

1. The Fund will have a minimum of 20 non-affiliated issuers;
2. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio;
3. No individual bond will account for more than 5% of the weight of the Fund's portfolio;
4. The Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 25% of the Fund's total assets, except that up to and including 40% of the Fund's total assets may be invested in Municipal Securities of issuers in each of California, New York, and Texas;
5. The Fund's investments in Municipal Securities will be diversified among issuers in at least 10 states and U.S. territories; and
6. The Fund will be diversified among a minimum of five different sectors of the Municipal Securities market.[18]

The Exchange states that pre-refunded bonds will be excluded from the above limits given that they have a high level of credit quality and liquidity.[19]

D. Application of Generic Listing Requirements

The Exchange proposes to list and trade the Shares under NYSE Arca Rule 8.600–E, which includes generic listing requirements for Managed Fund Shares. According to the Exchange, the Fund's portfolio will not meet all of the generic listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E. Commentary .01(b)(1) to NYSE Arca Rule 8.600–E requires that, on both an initial and continuing basis, components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each have a minimum original principal amount outstanding of $100 million or more. The Exchange states that the Fund would not meet this requirement, as a result principally of the Fund's investments in Municipal Securities. The Exchange represents that the Fund's investments in Municipal Securities would be subject to the requirements described in Section II.C. above. The Exchange notes that the Manager represents that the fixed income weight of the Fund's portfolio, other than holdings in Municipal Securities, will meet the generic listing requirements of Commentary .01(b). The Exchange also represents that, other than Commentary .01(b)(1), the Fund's portfolio will meet all other requirements of NYSE Arca Rule 8.600–E.

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2017–99, as Modified by Amendment No. 2, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[20] to determine whether the proposed rule change, as modified by Amendment No. 2, should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change, as modified by Amendment No. 2.

Pursuant to Section 19(b)(2)(B) of the Act,[21] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.''[22] As discussed above, the Exchange notes that, other than

[15] Options on swaps are traded OTC. In the event that there are exchange-traded options on swaps, the Fund may invest in these instruments.

[16] Restricted securities include private placement securities that have not been registered under the applicable securities laws, such as Rule 144A securities, and securities of U.S. and non-U.S. issuers that are issued pursuant to Regulation S.

[17] ''Periods of high cash inflows or outflows'' as used in this filing means rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods. During such periods, the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash.

[18] The Fund's investments in Municipal Securities will include investments in state and local (*e.g.,* county, city, town) Municipal Securities relating to such sectors as the following: airports; bridges and highways; hospitals; housing; jails; mass transportation; nursing homes; parks; public buildings; recreational facilities; school facilities; streets; and water and sewer works.

[19] The Exchange states that pre-refunded bonds (also known as refunded or escrow-secured bonds) have a high level of credit quality and liquidity because the issuer ''pre-refunds'' the bond by setting aside in advance all or a portion of the amount to be paid to the bondholders when the bond is called. Generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds.

[20] 15 U.S.C. 78s(b)(2)(B).

[21] *Id.*

[22] 15 U.S.C. 78f(b)(5).

Commentary .01(b)(1), the Fund's portfolio will meet all other requirements of NYSE Arca Rule 8.600–E. The Commission notes that Commentary .01(a)(1)(E) to NYSE Arca Rule 8.600–E requires that, on both an initial and continuing basis, the component stocks of the equity portion of a portfolio that are U.S. Component Stocks (as described in NYSE Arca Rule 5.2–E(j)(3)) be listed on a national securities exchange and be NMS Stocks as defined in Rule 600 of Regulation NMS under the Act.[23] Commentary .01(a)(2)(E) to NYSE Arca Rule 8.600–E requires that, on both an initial and continuing basis, the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks (as described in NYSE Arca Rule 5.2–E(j)(3)) be listed and traded on an exchange that has last-sale reporting. In the proposal, the Exchange states that the Fund may invest in non-exchange-traded securities of other registered investment companies (*i.e.,* mutual funds) and OTC convertible and nonconvertible preferred stocks, but does not explain the application of Commentary .01(a)(1)(E) or Commentary .01(a)(2)(E) (or both) to these investments, and why these investments are consistent with the Act. The Commission seeks commenters' views on these aspects of the proposal, and whether the Exchange's statements and representations support a determination that the listing and trading of the Shares would be consistent with Section 6(b)(5) of the Act.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[24] any request for an opportunity to make an oral presentation.[25]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 2, should be approved or disapproved by February 22, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by March 8, 2018.

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–NYSEArca–2017–99 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–NYSEArca–2017–99. 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 website (*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 website 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–NYSEArca–2017–99 and should be submitted by February 22, 2018. Rebuttal comments should be submitted by March 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–01952 Filed 1–31–18; 8:45 am]

BILLING CODE 8011–01–P

[23] Commentary .01(a)(1)(F) to NYSE Arca Rule 8.600–E provides that American Depositary Receipts (''ADRs'') in a portfolio may be exchange-traded or non-exchange-traded, but no more than 10% of the equity weight of a portfolio may consist of non-exchange-traded ADRs.

[24] 17 CFR 240.19b–4.

[25] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[26] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82591; File No. SR–BatsBZX–2017–54]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of Amendment No. 4 and Order Approving on an Accelerated Basis a Proposed Rule Change, as Modified by Amendment No. 4 Thereto, To List and Trade Shares of the iShares Inflation Hedged Corporate Bond ETF Under Rule 14.11(i), Managed Fund Shares

January 26, 2018.

I. Introduction

On September 7, 2017, Bats BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade Shares (''Shares'') of the iShares Inflation Hedged Corporate Bond ETF (''Fund'') under Exchange Rule 14.11(i) (''Managed Fund Shares''). The Commission published notice of the proposed rule change in the **Federal Register** on September 27, 2017.[3] On November 7, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81671 (September 21, 2017), 82 FR 45103.

[4] 15 U.S.C. 78s(b)(2).

rule change.[5] On December 8, 2017, the Exchange submitted Amendment No. 1 to the proposed rule change. On December 15, 2017, the Exchange withdrew Amendment No.1 and submitted Amendment No. 2 to the proposed rule change, which amended and replaced in its entirety the proposed rule change as originally filed. On December 22, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On January 9, 2018, the Exchange submitted Amendment No. 3 to the proposed rule change, which amended and replaced in its entirety the proposed rule change, as modified by Amendment No. 2. On January, 11, 2018, the Exchange submitted Amendment No. 4 to the proposed rule change, which amended and replaced in its entirety the proposed rule change, as modified by Amendment No. 3.[8] The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 4 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 4, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 4

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

This Amendment No. 4 to SR–BatsBZX–2017–54 amends and replaces in its entirety Amendment No. 3 to SR–BatsBZX–2017–54, which was submitted on January 9, 2017, which amended and replaced in its entirety Amendment No. 2 to SR–BatsBZX–2017–54, which was submitted on December 15, 2017, which amended and replaced in its entirety the proposal as originally submitted on September 7, 2017. The Exchange submits this Amendment No. 3 [sic] in order to clarify certain points and add additional details about the Fund.

The Exchange proposes to list and trade the Shares under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[9] The Fund will be an actively managed exchange-traded fund that seeks to mitigate the inflation risk of a portfolio composed of U.S. dollar-denominated investment-grade corporate bonds either through holding such bonds or through holding exchange-traded funds (''ETFs'') that hold such bonds, as further described below. The Exchange submits this proposal in order to allow the Fund to hold Inflation Hedging Instruments, as defined below, in a manner that may not comply with Rule 14.11(i)(4)(C)(iv)(a),[10] Rule 14.11(i)(4)(C)(iv)(b),[11] and/or Rule 14.11(i)(4)(C)(v),[12] as further described

[5] *See* Securities Exchange Act Release No. 82025, 82 FR 52763 (November 14, 2017). The Commission designated December 26, 2017, as the date by which it should approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 82388, 82 FR 61596 (December 28, 2017).

[8] In Amendment No. 4, the Exchange: (1) Identified the adviser of the Fund and made certain representations relating to the adviser and its personnel; (2) clarified the investment strategy and holdings of the Fund; (3) supplemented its description of the Inflation Hedging Instruments (as defined below) that the Fund may invest, including by adding interest rate swaps that are either listed and traded on a U.S. SEF registered with the CFTC or are centrally cleared; (4) stated that the listed interest rate swaps that the Fund may invest in will not comply with the generic requirements for listed derivatives set forth in Rule 14.11(i)(4)(C)(iv)(a) or (b) (as further described below) and that the OTC interest swaps that the Fund may invest in will not comply with the generic requirements for OTC derivatives set forth in Rule 14.11(i)(4)(C)(v) (as further described below); (5) represented that the Fund's investments in derivative instruments will be made in accordance with the Investment Company Act of 1940 (''1940 Act'') and consistent with the Fund's investment objective and policies, and that the Fund would take certain actions to mitigate and disclose leveraging risk; (6) stated that price information for cash equivalents will be available from major market data vendors; (7) made additional representations regarding the Fund and information relating to the Shares, including that (a) the Disclosed Portfolio will be available on the issuer's website free of charge; (b) the Fund's website will include a form of the prospectus for the Fund and additional information related to net asset value (''NAV'') and other applicable quantitative information; (c) information regarding market price and trading volume of the Shares will be continuously available throughout the day on brokers' computer screens and other electronic services and information regarding the previous day's closing price, and trading volume for the Shares will be published daily in the financial section of newspapers; (d) quotation and last sale information for the Shares will be available through the Consolidated Tape Association; (e) trading in the Shares may be halted for market conditions or for reasons that, in the view of the Exchange, make trading inadvisable; (f) the Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities; (g) the Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions; and (h) prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares; (8) provided additional justification for why the Fund's proposed investments are consistent with the Act; (9) made additional representations regarding the ability of the Exchange to surveil trading in the Shares and certain of the underlying investments, including that the Exchange has a policy prohibiting the distribution of material non-public information by its employees; and (10) made other clarifications, corrections, and technical changes. Amendment No. 4 is available at *https://www.sec.gov/comments/sr-batsbzx-2017-54/batsbzx201754-2916905-161845.pdf.*

[9] The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100).

[10] Rule 14.11(i)(4)(C)(iv)(a) provides that ''there shall be no limitation to the percentage of the portfolio invested in such holdings; provided, however, that in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement, calculated using the aggregate gross notional value of such holdings.'' The Exchange is proposing that the Fund be exempt from this requirement only as it relates to the Fund's holdings in certain credit default swaps, interest rate swaps, and Inflation Swaps, as further described below.

[11] Rule 14.11(i)(4)(C)(iv)(b) provides that ''the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).'' The Exchange is proposing that the Fund be exempt only from the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures). The Exchange is proposing that the Fund be exempt from this requirement as it relates to the Fund's holdings in listed derivatives, which include U.S. Treasury futures, credit default swaps, and certain Inflation Swaps and interest rate swaps, as further described below. The Fund will meet the requirement that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures).

[12] Rule 14.11(i)(4)(C)(v) provides that ''the portfolio may, on both an initial and continuing basis, hold OTC derivatives, including forwards, options, and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing, however the aggregate gross notional value of OTC Derivatives shall not exceed 20% of the weight of the portfolio (including gross notional exposures).'' The Exchange is proposing that the Fund be exempt from this requirement only

below. Otherwise, the Fund will comply with all other listing requirements on an initial and continued listing basis under Rule 14.11(i).

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on June 21, 2011. BlackRock Fund Advisors (the ''Adviser'') is the investment adviser to the Fund. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[13]

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[14] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer, but is affiliated with multiple broker-dealers and has implemented and will maintain ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the 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 and maintain 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 Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

iShares Inflation Hedged Corporate Bond ETF

According to the Registration Statement, the Fund will be an actively managed exchange-traded fund that will seek to mitigate the inflation risk of a portfolio with exposure to U.S. dollar-denominated investment-grade corporate bonds. The Fund seeks to achieve its investment objective by investing, under Normal Market Conditions,[15] at least 80% of its net assets in the iShares iBoxx $ Investment Grade Corporate Bond ETF (the ''Underlying Fund''), U.S. dollar-denominated investment-grade corporate bonds, in one or more other ETFs[16] that principally invest in U.S. dollar-denominated investment-grade corporate bonds, and in Inflation Hedging Instruments, as defined below. The Fund will gain exposure to U.S. dollar-denominated investment-grade corporate bonds primarily through investing in the Underlying Fund. As an alternative, the Fund may gain such exposure by investing in U.S. dollar-denominated investment-grade corporate bonds or through other ETFs that are listed on a U.S. national securities exchange that principally invest in U.S. dollar-denominated investment-grade corporate bonds. The Fund will attempt to mitigate the inflation risk of the Fund's exposure to U.S. dollar-denominated investment-grade corporate bonds primarily through the use of either OTC or listed inflation swaps (*i.e.,* contracts in which the Fund will make fixed-rate payments based on notional amount while receiving floating-rate payments determined from an inflation index) (''Inflation Swaps''),[17] which are managed on an active basis. As an alternative, the Fund may also attempt to mitigate the inflation risk of the underlying securities or the Underlying Fund through investing in other products designed to transfer inflation risk from one party to another, including only the following: Treasury Inflation-Protected Securities (''TIPS''), total return swaps,[18] credit default swaps,[19] interest rate swaps,[20] and U.S. Treasury

as it relates to the Fund's holdings in OTC derivatives, which include total return swaps and certain Inflation Swaps and interest rate swaps, as further described below.

[13] *See* Registration Statement on Form N–1A for the Trust, dated April 6, 2017 (File Nos. 333–179904 and 811–22649). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Company under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[14] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[15] As defined in Rule 14.11(i)(3)(E), 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.

[16] For purposes of this proposal, the term ETF includes Portfolio Depositary Receipts, Index Fund Shares, and Managed Fund Shares as defined in Rule 14.11(b), (c), and (i), respectively, and their equivalents on other national securities exchanges.

[17] *See supra* notes 10, 11, and 12. All Inflation Swaps held by the Fund will be listed and/or centrally cleared in order to reduce counterparty risk. All listed Inflation Swaps held by the Fund will be traded on a U.S. Swap Execution Facility registered with the Commodity Futures Trading Commission.

[18] *See supra* note 12. All total return swaps held by the Fund will be traded OTC. The Fund will attempt to limit counterparty risk in non-cleared swap contracts by entering into such contracts only with counterparties the Adviser believes are creditworthy and by limiting the Fund's exposure to each counterparty. The Adviser will monitor the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis. The total return swaps will generally reference TIPS, the Consumer Price Index, or a corporate bond index.

[19] *See supra* notes 10 and 11. Credit default swaps held by the Fund will be traded on a U.S. Swap Execution Facility registered with the Commodity Futures Trading Commission.

[20] *See supra* note 10, 11, and 12. All interest rate swaps held by the Fund will be listed and/or centrally cleared in order to reduce counterparty risk. All listed interest rate swaps held by the Fund

Continued

futures [21] (collectively with Inflation Swaps, ''Inflation Hedging Instruments''). The Exchange is proposing to allow the Fund to hold up to 50% of the weight of its portfolio (including gross notional exposure) in Inflation Hedging Instruments, collectively, in a manner that may not comply with Rules 14.11(i)(4)(C)(iv)(a),[22] 14.11(i)(4)(C)(iv)(b),[23] and/or 14.11(i)(4)(C)(v),[24] as discussed above.

The Fund's investments, including derivatives, will be consistent with the 1940 Act and the Fund's investment objective and policies and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).[25] That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A). The Fund will only use those derivatives included in the defined term Inflation Hedging Instruments. The Fund's use of derivative instruments will be collateralized. As noted above, the Fund will only use derivative instruments in order to attempt to mitigate the inflation risk of the U.S. dollar-denominated investment-grade corporate bonds.

The Exchange notes that the Fund may also hold certain fixed income securities and cash and cash equivalents in compliance with Rules 14.11(i)(4)(C)(ii) and (iii) in order to collateralize its derivatives positions.

The Exchange represents that, except for the exceptions to BZX Rule 14.11(i)(4)(C) described above, the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under Rule 14.11(i). The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Fund. In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares including, but not limited to, requirements relating to the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance, firewalls, and the information circular, as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. At least 100,000 Shares will be outstanding upon the commencement of trading.

Moreover, all of the equity securities and futures contracts held by the Fund will trade on markets that are a member of Intermarket Surveillance Group (''ISG'') or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[26] Additionally, the Exchange or FINRA, on behalf of the Exchange, are able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, and the applicability of Exchange rules specified in this filing shall constitute continued listing requirements for the Fund. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the 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 the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

Availability of Information

As noted above, the Fund will comply with the requirements for Managed Fund Shares related to Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value. Additionally, the intra-day, closing and settlement prices of exchange-traded portfolio assets, including ETFs and futures, will be readily available from the securities exchanges and futures exchanges trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Intraday price quotations on both listed and OTC swaps, TIPS, and fixed income instruments are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee. Price information for cash equivalents will be available from major market data vendors. The Disclosed Portfolio will be available on the issuer's website free of charge. The Fund's website includes a form of the prospectus for the Fund and additional information related to NAV and other applicable quantitative information. Information regarding market price and trading volume of the Shares will be continuously available throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information on the Shares will be available through the Consolidated Tape Association. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers. Trading in the Shares may be halted for market conditions or for reasons that, in the view of the Exchange, make trading inadvisable. The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange has appropriate rules to facilitate trading in the shares during all trading sessions.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and

will be traded on a U.S. Swap Execution Facility registered with the Commodity Futures Trading Commission

[21] *See supra* note 11.

[22] *See supra* note 10.

[23] *See supra* note 11.

[24] *See supra* note 12.

[25] The Fund will 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. The Fund's investments in in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To mitigate leveraging risk, the Fund will segregate or earmark liquid assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. *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).

[26] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening [27] and After Hours Trading Sessions [28] when an updated Intraday Indicative Value and Underlying Index value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's website.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [29] in general and Section 6(b)(5) of the Act [30] 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 will meet each of the initial and continued listing criteria in BZX Rule 14.11(i) except that the Fund may not comply with Rules 14.11(i)(4)(C)(iv)(a),[31] 14.11(i)(4)(C)(iv)(b),[32] and/or 14.11(i)(4)(C)(v).[33] The Exchange believes that the liquidity in the Treasury futures markets mitigates the concerns that Rule 14.11(i)(4)(C)(iv)(b) is intended to address and that such liquidity would help prevent the Shares from being susceptible to manipulation. Further, the Exchange believes that for listed swaps, including credit default swaps, interest rate swaps, and Inflation Swaps, the price transparency and surveillance performed by the applicable swap execution facility would similarly act to mitigate the risk of manipulation of the Shares. The Exchange also believes that the size of the inflation swaps market,[34] which would include all of the listed and OTC swaps that the Fund intends to invest in, also mitigates manipulation concerns relating to both listed and OTC swaps held by the Fund.[35]

As it relates to Rule 14.11(i)(4)(C)(v), which provides that the notional value of OTC Derivatives shall not exceed 20% of the weight of the portfolio (including gross notional exposures), in an effort to mitigate counterparty risk and exposure to potentially illiquid and manipulable derivatives contracts, the Exchange notes that the Fund will attempt to limit counterparty risk in non-cleared OTC swap contracts, namely total return swaps, by entering into such contracts only with counterparties the Adviser believes are creditworthy and by limiting the Fund's exposure to each counterparty. The Adviser will monitor the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis. OTC Inflation Swaps and interest rate swaps held by the Fund will be centrally cleared. Further, the Exchange notes that notional principal never changes hands in such swaps transactions, and it is a theoretical value used to base the exchanged payments. A more accurate representation of the swaps value in order to monitor total counterparty risk would be the mark-to market value of the swap since inception, which the Adviser generally expects to remain at around 5% of the Fund's net assets.[36] As noted above, the inflation swap market,[37] which would include all of the listed and OTC swaps that the Fund intends to invest in, is large and liquid, which the Exchange believes further mitigates the concerns which Rule 14.11(i)(4)(C)(v) is intended to address.

As it relates to the requirement in Rule 14.11(i)(4)(C)(iv)(a) that at least 90% of the weight of the listed derivatives portion of the portfolio be in listed derivatives for which the Exchange may obtain information via ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement, 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. Additionally, all of the instruments that would not meet this requirement would nevertheless have a primary market that is a swap execution facility that is registered with and under the regulatory oversight of the CFTC.[38]

Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. All of the futures contracts, equity securities, and certain of the listed Inflation Swaps, listed credit default swaps, and listed interest

[27] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[28] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[29] 15 U.S.C. 78f.

[30] 15 U.S.C. 78f(b)(5).

[31] *See supra* note 10.

[32] *See supra* note 11.

[33] *See supra* note 12.

[34] For purposes of this discussion, the term ''inflation swaps market'' means any swap contract that references either a measure of inflation, an inflation index, or an instrument designed to transfer inflation risk from one party to another.

[35] According to publicly available numbers from LCH. Clearnet Limited, which clears both listed and OTC swaps, as of November 28, 2017 there was approximately $2.3 billion in average daily volume in inflation swaps, which would include the credit default swaps, interest rate swaps, and Inflation Swaps that the Fund intends to invest in, cleared through their platform alone and over $241 billion in notional interest outstanding in such inflation swaps.

[36] The Adviser plans to implement a hedging strategy very similar to the strategy that it employs with interest rate swaps for several other funds, each of which have approximately 50% of the weight of their notional exposure in interest rate swaps while each maintains less than 10% exposure as calculated using mark-to-market.

[37] *See* note 35, *supra.*

[38] The Exchange represents that not all CFTC registered swap execution facilities are members or affiliates of members of the ISG.

rate swaps held by the Fund 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. The Exchange, FINRA, on behalf of the Exchange, or both will communicate regarding trading in the Shares and the underlying futures contracts, equity securities, and certain of the listed Inflation Swaps, listed credit default swaps, and listed interest rate swaps held by the Fund with the ISG, other markets or entities who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[39] The Exchange, FINRA, on behalf of the Exchange, or both may obtain information regarding trading in the Shares and the underlying futures contracts, equity securities, and certain of the listed Inflation Swaps, listed credit default swaps, and listed interest rate swaps held by the Fund via the ISG from other markets or entities who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[40] Additionally, the Exchange or FINRA, on behalf of the Exchange, may access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). The Exchange has a policy prohibiting the distribution of material non-public information by its employees.

The Exchange notes that the Fund will meet and be subject to all other requirements of the Generic Listing Rules and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the Disclosed Portfolio and the requirement that the Disclosed Portfolio and the NAV will be made available to all market participants at the same time,[41] Intraday Indicative Value,[42] suspension of trading or removal,[43] trading halts,[44] disclosure,[45] and firewalls.[46] Further, at least 100,000 Shares will be outstanding upon the commencement of trading.[47]

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, rather will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among both market participants and listing venues, 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. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 4, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[48] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 4, is consistent with Section 6(b)(5) of the Act,[49] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As noted above, the Fund may hold up to 50% of the weight of its portfolio (including gross notional exposure) in Inflation Hedging Instruments, including certain derivatives, in a manner that may not comply with the generic listing requirements in Rules 14.11(i)(4)(C)(iv)(a), 14.11(i)(4)(C)(iv)(b), and 14.11(i)(4)(C)(v).[50] The Exchange states that the Fund will only use those derivatives included in the defined term Inflation Hedging Instruments and that the Fund will only use derivative instruments in order to attempt to mitigate the inflation risk of the U.S. dollar-denominated investment-grade corporate bonds to which the Fund will have exposure. The Exchange states that the Fund's use of derivative instruments will be collateralized. In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares including, but not limited to, requirements relating to the dissemination of key information such as the Disclosed Portfolio (as defined in BZX Rule 14.11(i)(3)(B)).[51]

The Exchange states that the Fund's investments in certain listed credit default swaps, certain listed interest rate swaps, and certain listed Inflation Swaps will not meet the generic listing requirement that at least 90% of the weight of the listed derivatives holdings in the portfolio be in listed derivatives for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement.[52] The Exchange represents that all of the listed credit default swaps, listed interest rate swaps, and listed Inflation Swaps that would not meet this requirement would nevertheless be listed on a U.S. SEF and, therefore, have as a primary market a SEF registered with, and under the regulatory oversight of, the CFTC.[53]

[39] *See* note 26, *supra.*

[40] *See* note 26, *supra.*

[41] *See* Rules 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[42] *See* Rule 14.11(i)(4)(B)(i).

[43] *See* Rule 14.11(i)(4)(B)(iii).

[44] *See* Rule 14.11(i)(4)(B)(iv).

[45] *See* Rule 14.11(i)(6).

[46] *See* Rule 14.11(i)(7).

[47] *See* Rule 14.11(i)(4)(A)(i).

[48] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[49] 15 U.S.C. 78f(b)(5).

[50] The Exchange states that the Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To mitigate leveraging risk, the Fund will segregate or earmark liquid assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 (or, as permitted by applicable regulations, enter into certain offsetting positions) to cover its obligations under derivative instruments. According to the Exchange, these procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. *See supra* note 25.

[51] Rule 14.11(i)(4)(B)(ii) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time. Rule 14.11(i)(3)(B) requires that the website for each series of Managed Fund Shares disclose the following information regarding the Disclosed Portfolio, to the extent applicable: (i) Ticker symbol; (ii) CUSIP or other identifier; (iii) description of the holding; (iv) the identity of the security, commodity, index, or other asset upon which a derivative is based; (v) the strike price for any options; (vi) the quantity of each security or other asset held as measured by (a) par value, (b) notional value, (c) number of shares, (d) number of contracts, and (e) number of units; (vii) maturity date; (viii) coupon rate; (ix) effective date; (x) market value; and (xi) percentage weighting of the holding in the portfolio. The Exchange represents that this website information will be publicly available free of charge.

[52] *See* Rule 14.11(i)(4)(C)(iv)(a).

[53] The Exchange represents that not all CFTC-registered SEFs are members or affiliates of members of the ISG.

The Exchange states that the Fund's investments in listed derivatives, including U.S. Treasury futures, listed credit default swaps, listed Inflation Swaps, and listed interest rate swaps, will not meet the generic listing requirement that the aggregate gross notional value of listed derivatives based on any single underlying reference asset not exceed 30% of the weight of the portfolio.[54] The Exchange states that it believes the liquidity in the Treasury futures markets mitigates manipulation concerns. In addition, as discussed above, all listed credit default swaps, listed interest rate swaps and listed Inflation Swaps that the Fund will invest in will be traded on U.S. SEFs registered with the CFTC. The Exchange states that the price transparency and surveillance performed by the applicable SEF on which the credit default swaps, interest rate swaps, or Inflation Swaps are listed would act to mitigate the risk of manipulation of the Shares. The Exchange also states that it believes that the size of the inflation swaps market,[55] which would include all of the listed swaps that the Fund intends to invest in, mitigates manipulation concerns relating to both the listed and OTC swaps held by the Fund.[56]

The Exchange states that the Fund's holdings in OTC derivatives, which include OTC total return swaps, OTC interest rate swaps, and OTC Inflation Swaps, will exceed 20% of the weight of the portfolio and, therefore, not meet the generic listing requirements.[57] The Exchange states that the Fund will attempt to limit counterparty risk in non-cleared OTC total return swaps by entering into such contracts only with counterparties the Adviser believes are creditworthy and by limiting the Fund's exposure to each counterparty, and that the Adviser will monitor the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis. In addition, the Exchange represents that all OTC Inflation Swaps and OTC interest rate swaps held by the Fund will be centrally cleared. The Exchange also represents that the Adviser generally expects the mark-to-market value of the OTC swaps to remain at around 5% of the Fund's net assets.[58] Finally, the Exchange states that the inflation swap market,[59] which would include all of the listed and OTC swaps that the Fund intends to invest in, is large and liquid, which mitigates the concerns the 20% limitation on OTC derivatives is intended to address.[60]

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[61] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA''). Further, as required by Rule 14.11(i)(4B)(i), the Intraday Indicative Value will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours (as defined in Rule 1.5(w))). Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including ETFs and futures, will be readily available from the securities exchanges and futures exchanges trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services, such as Bloomberg or Reuters. Intraday price quotations on both listed and OTC swaps, TIPS, and fixed income instruments will be available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay or in real-time for a paid fee. Price information for cash equivalents will be available from major market data vendors. In addition, the Fund's website includes a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission also believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. As required by Rule 14.11(i)(4)(A)(ii), the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Further, trading in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[62] Trading in the Shares will also be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted.

The Exchange states that it has a policy prohibiting the distribution of material, non-public information by its employees. The Exchange states that the Adviser is not a registered broker-dealer but the Adviser is affiliated with multiple broker-dealer and has implemented and will maintain ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition of and/or changes to the Fund's portfolio. Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[63]

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange represents that:

(1) Other than Rule 14.11(i)(4)(C)(iv)(a), Rule 14.11(i)(4)(C)(iv)(b), and Rule 14.11(i)(4)(C)(v), the Fund will comply with all other requirements for Managed Fund Shares under Rule 14.11(i).

(2) The Fund may to hold up to 50% of the weight of its portfolio (including gross notional exposure) in Inflation Hedging Instruments, which includes only the listed and OTC derivatives as described above. The Fund will only use derivative instruments to attempt to mitigate the inflation risk of the

[54] *See* Rule 14.11(i)(4)(C)(iv)(b).

[55] *See supra* note 34.

[56] The Exchange states that, as of November 28, 2017, according to publicly available data from LCH.Clearnet Limited, there was approximately $2.3 billion in average daily volume in inflation swaps (which would include the listed and OTC credit default swaps, interest rate swaps, and Inflation Swaps that the Fund intends to invest in) cleared through LCH.Clearnet Limited and over $241 billion in notional interest outstanding in such inflation swaps. *See supra* note 35.

[57] *See* Rule 14.11(i)(4)(C)(v).

[58] The Exchange states that with respect to valuing the OTC swaps in the portfolio, the notional principal never changes hands, it is a theoretical value used to base the exchanged payments on, and a more accurate representation of the swaps value in order to monitor total counterparty risk would be the mark-to market value of the swap since inception. *See supra* note 36 and accompanying text.

[59] *See supra* note 34.

[60] *See supra* note 56.

[61] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[62] *See* Amendment No. 4, *supra* note 8.

[63] *See* Rule 14.11(i)(4)(B)(ii)(b).

portfolio's exposure to U.S. dollar-denominated investment-grade corporate bonds.

(3) At least 100,000 Shares will be outstanding upon the commencement of trading.

(4) Trading of the Shares on the Exchange will be subject to the Exchange's surveillance procedures for derivative products, and these 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.

(5) The Exchange, the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or both, will communicate regarding trading in the Shares and the underlying futures contracts, equity securities, and certain of the listed swaps held by the Fund with the ISG, other markets or entities who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange, FINRA on behalf of the Exchange, or both may obtain information regarding trading in the Shares and the underlying futures contracts, equity securities, and certain of the listed swaps held by the Fund via the ISG from other markets or entities who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Exchange or FINRA, on behalf of the Exchange, may access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine.

(6) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Opening and After Hours Trading Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(7) All of the equity securities and futures contracts, and certain of the listed Inflation Swaps, listed credit default swaps, and listed interest rate swaps held by the Fund 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.

(8) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(9) For initial and continued listing of the Shares, the Trust must be in compliance with Rule 10A–3 under the Act.[64]

The Exchange represents that all statements and representations made in the filing regarding (1) the description of the portfolio or reference assets; (2) limitations on portfolio holdings or reference assets; (3) dissemination and availability of index, reference asset, and Intraday Indicative Values; and (4) the applicability of Exchange rules specified in the rule filing constitute continued listing requirements for the Fund. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the 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 the Fund or the Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

This approval order is based on all of the Exchange's statements and representations, including those set forth above and in Amendment No. 4.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 4, is consistent with Section 6(b)(5) of the Act[65] and Section 11A(a)(1)(C)(iii) of the Act[66] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 4 to the Proposed Rule Change

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 4 to the proposed rule change.

[64] *See* 17 CFR 240.10A–3.

[65] 15 U.S.C. 78f(b)(5).

[66] 15 U.S.C. 78k–1(a)(1)(C)(iii).

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–BatsBZX–2017–54 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–BatsBZX–2017–54. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. 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–BatsBZX–2017–54 and should be submitted on or before February 22, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 4

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 4, prior to the 30th day after the date of publication of notice of Amendment No. 4 in the **Federal Register**. Amendment No. 4 supplements the proposal by, among other things: (1) Providing

additional information regarding the Fund's holdings in Inflation Hedging Instruments; (2) making additional representations regarding the Fund and Shares, including representations relating to the Fund's investments in derivatives and the ability of the Exchange to surveil trading in the Shares and certain of the underlying investments; and (3) providing additional justification for why the Fund's proposed investments are consistent with the Act. These changes assist the Commission in evaluating the Exchange's proposal and in determining that the listing and trading of the Shares is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[67] to approve the proposed rule change, as modified by Amendment No. 4, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[68] that the proposed rule change (SR–BatsBZX–2017–54), as modified by Amendment No. 4 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[69]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–01951 Filed 1–31–18; 8:45 am]

BILLING CODE 8011–01–P

[67] 15 U.S.C. 78s(b)(2).

[68] 15 U.S.C. 78s(b)(2).

[69] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82589; File No. SR–NASDAQ–2018–006]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make a Technical Adjustment to its Rules To Allow Sub-Penny Quoting and Order Entry in Managed Fund Shares Priced Less Than $1.00

January 26, 2018.

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 January 23, 2018, 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 amend Nasdaq Rule 5735 to make a technical adjustment to its rules to allow sub-penny quoting and order entry in Managed Fund Shares. This filing is substantively identical to the relevant portion of a NYSE Arca, Inc. filing (SR–NYSEArca–2010–36).[3]

The text of the proposed rule change is available on the Exchange's website 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 Exchange proposes to make a technical adjustment [sic] its rules to allow sub-penny quoting of Managed Fund Shares. Currently, Nasdaq Rule 5735 restricts the minimum price variation for quoting and order entry to $0.01. Consistent with Regulation NMS Rule 612, the Exchange proposes to remove this provision to allow such securities to be quoted in a minimum pricing increment of $0.0001 for securities priced less than $1.00. The Exchange notes that it has not had any of the aforementioned securities quote below a dollar nor does it anticipate such an occurrence in the reasonably foreseeable future. The Exchange simply seeks to harmonize the minimum price variation in the aforementioned product with other equity securities traded on the Exchange.[4]

Moreover, the Exchange notes that this approach is substantially similar to the approach taken by NYSE Arca in 2010 in eliminating NYSE Arca Equities Rule 8.600 Commentary .03, which restricted the minimum price variation for quoting and order entry for Managed Fund Shares to $0.01.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system.

The Exchange believes that the proposed amendment is consistent with the goal of removing impediments to a free and open market because the changes proposed herein will substantially harmonize Nasdaq's sub-penny quoting and order entry rules with Rule 612 of Regulation NMS which allows a minimum pricing increment of $0.0001 for securities priced less than $1.00.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act and the proposed rule change may serve to enhance competition and put the exchange on an equal competitive footing as it pertains to sub-penny quoting and order entry for Managed Fund Shares.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62006 (April 29, 2010), 75 FR 25019 (May 6, 2010) (SR–NYSEArca–2010–36).

[4] *See* Nasdaq Rule 4613(a)(2)(I).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] 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 immediately upon filing. As noted above, NYSE Arca, Inc. has already adopted a substantively identical change to its rules.[11] According to the Exchange, the proposed rule change will put the Exchange on an equal competitive footing with respect to sub-penny quoting and order entry for Managed Fund Shares priced less than $1.00. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See supra* note 3 and accompanying text.

[12] 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–NASDAQ–2018–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–006. 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 website (*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 website 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–NASDAQ–2018–006 and should be submitted on or before February 22, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–01950 Filed 1–31–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Advisers Act Release No. 4849]

Notice of Intention To Cancel Registrations of Certain Investment Advisers Pursuant to Section 203(h) of the Investment Advisors Act of 1940

January 26, 2018.

Notice is given that the Securities and Exchange Commission (the ''*Commission*'') intends to issue an order or orders, pursuant to Section 203(h) of the Investment Advisers Act of 1940 (the ''*Act*''), cancelling the registrations of the investment advisers whose names appear in the attached Appendix, hereinafter referred to as the ''*registrants*''.

Section 203(h) of the Act provides, in pertinent part, that if the Commission finds that any person registered under Section 203, or who has pending an application for registration filed under that section, is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall by order cancel the registration of such person.

Each registrant listed in the attached Appendix either (a) has not filed a Form ADV amendment with the Commission as required by rule 204–1 under the Act and appears to be no longer in business as an investment adviser or (b) has indicated on Form ADV that it is no longer eligible to remain registered with the Commission as an investment adviser but has not filed Form ADV–W to withdraw its registration. Accordingly, the Commission believes that reasonable grounds exist for a finding that these registrants are no longer in existence, are not engaged in business as investment advisers, or are prohibited from registering as investment advisers under section 203A, and that their registrations should be cancelled pursuant to section 203(h) of the Act.

Notice is also given that any interested person may, by February 26, 2018, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the cancellation of the

registration of any registrant listed in the attached Appendix, accompanied by a statement as to the nature of such person's interest, the reason for such person's request, and the issues, if any, of fact or law proposed to be controverted, and the writer may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed to the SEC's Secretary at the address below.

At any time after February 26, 2018, the Commission may issue an order or orders cancelling the registrations of any or all of the registrants listed in the attached Appendix, upon the basis of the information stated above, unless an order or orders for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any registrant whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Matthew Cook, Attorney Adviser, at 202–551–6999; SEC, Division of Investment Management, Office of Investment Adviser Regulation, 100 F Street NE, Washington, DC 20549–8549.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.[1]

Robert W. Errett,

Deputy Secretary.

Appendix

SEC No.	Full legal name
801–29339	SUMMIT WEALTH MANAGEMENT.
801–31049	MFC ASSET MANAGEMENT PUBLIC COMPANY LIMITED.
801–34345	HUBER JOAN MACMONNIES.
801–55033	FFR ADVISORY LLC.
801–55695	HARTLAND ASSET MANAGEMENT CORP.
801–57335	PAN GEO INVESTMENT INC.
801–60497	GREENWICH ASSET MANAGEMENT GROUP, LLC.
801–60501	UA, LLC.
801–62656	PREMIERSOURCE LLC.
801–62767	STUX CAPITAL MANAGEMENT, LLC.
801–64854	CORESTATES CAPITAL ADVISORS, LLC.
801–65392	MCCONNELL ASSET MANAGEMENT LLC.
801–65693	TITAN CAPITAL GROUP III, LP.
801–65699	BINJAI HILL ASSET MANAGEMENT PTE LTD.
801–67444	CAMLIN ASSET MANAGEMENT, INC.
801–68936	WPN CORP.
801–69479	SUMMIT ASSET STRATEGIES WEALTH MANAGEMENT, LLC.
801–69850	ABLE ALPHA TRADING, LTD.
801–70243	LIGHTSTONE CAPITAL ADVISERS, LLC.
801–71630	HEXAM CAPITAL PARTNERS, LLP.
801–71642	LWA FUND ADVISORS, LLC.
801–72439	EMERGING MANAGERS GROUP, L.P.
801–72722	IGENERATIONS PRIVATE WEALTH MANAGEMENT.
801–72802	401HARMONY LLC.
801–74225	NOGALES INVESTORS MANAGEMENT, LLC.
801–77991	PRAESTO INVESTMENT ADVISORS INC.
801–78030	VIRGINIA FINANCIAL INNOVATION CORP.
801–78054	ATF EXCHANGE, LLC.
801–78063	VIASOURCE FUNDING GROUP, LLC.
801–78432	HANMARU ASSET MANAGEMENT LLC.
801–78707	FINAPORT AMERICAS INVESTMENT ADVISERS, LLC.
801–78912	STERLING MARKETS LLC.
801–79102	SOUTHERN UTAH WEALTH NAVIGATION, LLC.
801–79138	TAM PORTFOLIOS, LLC.
801–79241	RCG CAPITAL MANAGEMENT, LLC.
801–79574	FRANCES, DOVI DOV.
801–79639	MERRIMAN ASSET MANAGEMENT, INC.
801–80111	GINKGO CAPITAL LIMITED.
801–80121	DBA APEX CAPITAL.
801–80126	GLOBAL SELECT ADVISORS LTD.
801–80237	ONEWALL ADVISORS UK LLP.
801–80333	NIGHTHAWK CAPITAL LIMITED.
801–80532	AVIV ASSET MANAGEMENT, LLC.
801–80773	D. L. WATSON & COMPANY, INC.
801–80849	HIGHTOWER FINANCIAL SOLUTIONS LLC.
801–80870	JUTLAND CAPITAL MANAGEMENT LTD.
801–96231	FFI ADVISORS LLC.
801–96242	PRO WEALTH ADVISORS LLC.
801–100366	PEERAGE NOBLE LLC.
801–106665	QUANTUMSHARES, LLC.
801–106838	FUNDAMENTAL CORPORATE CREDIT US LLC.

[1] 17 CFR 200.30–5(e)(2).

SEC No.	Full legal name
801–106839	FUNDAMENTAL MANAGERS LLC.
801–107261	GRAHAM WEALTH ADVISORS, LLC.
801–108797	BETASMARTZ ADVISORY LLC.
801–110135	VEST TECHNOLOGIES, INC.

[FR Doc. 2018–01948 Filed 1–31–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82593; File No. SR–NYSEArca–2017–140]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change To List and Trade Shares of the Perth Mint Physical Gold ETF Trust Pursuant to NYSE Arca Rule 8.201–E

January 26, 2018.

I. Introduction

On December 11, 2017, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Perth Mint Physical Gold ETF Trust (''Trust'') under NYSE Arca Equities Rule 8.201–E. The proposed rule change was published for comment in the **Federal Register** on December 28, 2017.[3] The Commission has not received any comments on the proposed rule change. This order approves the proposed rule change.

II. The Description of the Proposed Rule Change [4]

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.201–E,[5] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[6] The Shares will represent units of fractional undivided beneficial interest in and ownership of the Trust. The Trust's primary objective will be to provide investors with an opportunity to invest in gold through the Shares, have the gold securely stored by Gold Corporation and, if requested by an investor, deliver Physical Gold [7] to such investor in exchange for its Shares.[8]

The sponsors of the Trust will be Gold Corporation (''Custodial Sponsor'') and Exchange Traded Concepts, LLC (''ETC'' or the ''Administrative Sponsor'' and, together with the Custodial Sponsor, the ''Sponsors'') [9] and Gold Corporation will also serve as custodian of the Trust's gold bullion (in such capacity, ''Custodian'').[10]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposed rule change to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[12] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The last-sale price for the Shares will be disseminated over the Consolidated Tape. There is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services. Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers.[13]

Additionally, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[14] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82372 (Dec. 21, 2017), 82 FR 61601 (''Notice'').

[4] A more detailed description of the Trust and the Shares, as well as investment risks, Share creation procedures for authorized participants, Share redemption procedures for authorized participants and certain beneficial owners, NAV calculation, availability of information and fees, among other things, is included in the Registration Statement, *infra* note 5.

[5] On August 30, 2017, the Trust submitted to the Commission its draft registration statement on Form S–1 (''Registration Statement'') under the Securities Act of 1933 (15 U.S.C. 77a).

[6] A ''Commodity-Based Trust Share'' is a security (a) that is issued by a trust that holds a specified commodity deposited with the trust; (b) that is issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity. *See* NYSE Arca Equities Rule 8.201(c)(1).

[7] ''Physical Gold'' is defined as London Bars and all gold products without numismatic value and having a gold purity of at least 99.5% (including coins, cast bars and minted bars).

[8] According to the Registration Statement, the Trust does not trade in gold futures contracts on COMEX or on any other futures exchange. Because the Trust does not trade in gold futures contracts on any futures exchange, the Trust is not regulated by the CFTC under the Commodity Exchange Act as a ''commodity pool,'' and is not operated by a CFTC-regulated commodity pool operator. Investors in the Trust do not receive the regulatory protections afforded to investors in regulated commodity pools, nor may COMEX or any futures exchange enforce its rules with respect to the Trust's activities. In addition, investors in the Trust do not benefit from the protections afforded to investors in gold futures contracts on regulated futures exchanges.

[9] Gold Corporation, doing business as the Perth Mint, is a Western Australian Government owned statutory body corporate established by the Gold Corporation Act 1987 (Western Australia). ETC is an Oklahoma limited liability company majority owned by Cottonwood ETF Holdings LLC. ETC is a registered investment adviser and provides investment advisory services to domestic and international equity and fixed income ETFs.

[10] As Custodian of the Trust's gold bullion, Gold Corporation will be responsible for the safekeeping of the Trust's gold and supplying inventory information to the Trustee and the Sponsors. The Custodian will also be responsible for facilitating the transfer of gold in and out of the Trust and facilitating the shipment of Physical Gold to Delivery any beneficial owner (who is not an authorized participant) who wishes to surrender Shares in exchange for Physical Gold.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[13] The Exchange states that Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of Gold and last sale prices of gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on gold prices directly from market participants. Complete real-time data for gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk. See* Notice, *supra* note 3, 82 FR at 61605.

[14] 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 Commission notes that the Exchange has surveillance-sharing agreements with significant, regulated markets for trading futures on gold. Specifically, according to the Exchange: (1) The most significant gold futures exchanges in the U.S. is COMEX, a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (''CME Group''); (2) ICE Futures US (''ICE'') also lists gold futures; [15] and (3) the CME Group and ICE are members of the ISG,[16] which will allow NYSE Arca to obtain surveillance information from COMEX and ICE. Both COMEX and ICE are regulated by the U.S. Commodity Futures Trading Commission (''CFTC'').[17] The gold futures market is of significant size and liquidity.[18]

The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. NYSE Arca Equities Rule 8.201(e)(2)(v) requires that an intraday indicative value (''IIV,'' which is referred to in the rule as the ''Indicative Trust Value'') be calculated and disseminated at least every 15 seconds. The IIV will be calculated based on the amount of gold held by the Trust and a price of gold derived from updated bids and offers indicative of the spot price of gold. The Exchange states that the IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[19] The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website.[20] The Trust also will publish the following information on their website: (1) The mid-point of the bid-ask price as of the close of trading (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Trust's prospectus, as well as the two most recent reports to stockholders; and (4) the last-sale price of the Shares as traded in the U.S. market.[21] In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The Commission also believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[22] The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily.[23] The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV; if the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[24]

Additionally, the Commission notes that market makers in the Shares will be subject to the requirements of NYSE Arca Equities Rule 8.201–E(g), which are designed to allow the Exchange to ensure that they do not use their positions to violate the requirements of Exchange rules or applicable federal securities laws.[25]

In support of this proposal, the Exchange has made the following additional representations:

(1) The Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.201–E.[26]

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.[27]

(3) The Exchange deems the Shares to be equity securities.[28]

(4) The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.[29]

(5) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[30]

(6) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the

[15] *See* Notice, *supra* note 3, 82 FR at 61603.

[16] *See id.*

[17] *See https://www.theice.com/futures-us/regulation* (''ICE Futures U.S. is a Designated Contract Market pursuant to the Commodity Exchange Act and regulated by the CFTC.''); Securities Exchange Act Release No. 68440 (December 14, 2012), 78 FR 75468, 75469 (December 20, 2012) (SR–NYSEArca–2012–28) (COMEX is regulated by the CFTC).

[18] The Commission further notes that it has approved the listing and trading of other Commodity-Based Trust Shares overlying gold. *See, e.g.,* Securities Exchange Act Release No. 81918 (October 23, 2017), 82 FR 49884 (October 27, 2017) (SR–NYSEArca–2017–98); Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 71378 (January 29, 2014) (SR–NYSEArca–2013–137); and Securities Exchange Act Release No. 70195 (August 14, 2013, 2013), 78 FR 51239 (August 20, 2013) (SR–NYSEArca–2013–61).

[19] *See* Notice, *supra* note 3, 82 FR at 61607.

[20] *See id.*

[21] *See id.* at 61606.

[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] Commentary .04 of NYSE Arca Equities Rule 6.3 requires that an ETP Holder acting as a registered market maker in the Shares, and its affiliates, establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

[26] *See id.*

[27] *See id.*

[28] *See id.* The Commission notes that, as a result, trading of the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

[29] *See id.* at 61607.

[30] *See id.* at 61606. FINRA conducts 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. *See id.* at 61606, n.39.

Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[31]

(7) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information.[32]

(8) All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.[33]

(9) The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m).[34]

This approval order is based on all of the Exchange's representations—including those set forth above and in the Notice—and the Exchange's description of the Trust.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) and 11A(a)(1)(C)(iii) of the Act[35] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[36] that the proposed rule change (SR–NYSEArca–2017–140), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2018–01953 Filed 1–31–18; 8:45 am]

BILLING CODE 8011–01–P

[31] *See id.* at 61606.

[32] *See id.* at 61607.

[33] *See id. See also* NYSE Arca Rule 8.201–E(e)(2)(vii).

[34] *See* Notice, *supra* note 3, at 61607.

[35] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78k–1(a)(1)(C)(iii), respectively.

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before March 5, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: Lenders requesting SBA to purchase the guaranty portion of a loan are required to supply the Agency with a certified transcript of the loan account. This form is uniform and convenient means for lenders to report and certify loan accounts to purchase by SBA. The Agency uses the information to determine date of loan default and whether Lender disbursed and serviced the loan according to Loan Guaranty agreement.

Solicitation of Public Comments: Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections:

(1) *Title:* Lender's Transcript of Account.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 1149.

Estimated Annual Respondents: 1,000.

Estimated Annual Responses: 15,000.

Estimated Annual Hour Burden: 30,000.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01994 Filed 1–31–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA),which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before March 5, 2018.

ADDRESSES: Comments should refer to the information collection by name and/

or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: For financial assistance programs authorized by section 7(a) and (b) of the Small Business Act and Title V of the Small Business Investment Act of 1958, SBA regulations require any loan guarantor and individual owners of the small business applicant to submit a personal financial statement to provide information on their assets and liabilities. *See,* 13 CFR 120.191 and 13 CFR 123.6. The information is necessary for the Agency, the participating lender or CDC to make informed decisions concerning the applicant's repayment abilities or creditworthiness.

For the 8(a) Business Development (BD), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) programs the information is necessary for SBA to determine if the applicant or participant meets the economic disadvantage requirements to participate in these programs. SBA regulations at 13 CFR 124.104, 124.112, 124.1002, and 13 CFR 127.203 require, among other things, that applicants and participants submit financial information to facilitate this determination.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) *Title:* Personal Financial Statement.

Description of Respondents: Applicants and/or Participants in SBA's 7(a) loan program, 504 loan program, and disaster loan program, and 8(a) Business Development program, and the Women-Owned Small Business program.

Form Numbers: SBA Forms 413(7a), 413(D), 413(8(a)) and 413(WOSB).

Estimated Annual Respondents: 44,588.

Estimated Annual Responses: 44,588.

Estimated Annual Hour Burden: 66,882.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01995 Filed 1–31–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before March 5, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The objective of the debt collection activities is to obtain immediate repayment or arrive at a satisfactory arrangement for future repayment of debts owed to the Government. SBA uses the financial information provided by the debtor on Form 770 in making a determination regarding the compromise of such debts and other liquidation proceedings including litigation by the Agency and/or the Department of Justice.

Solicitation of Public Comments: Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections:

(1) *Title:* Financial Statement of Debt.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 770.

Estimated Annual Respondents: 5,000.

Estimated Annual Responses: 5,000.

Estimated Annual Hour Burden: 5,000.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01991 Filed 1–31–18; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2017–0037]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA).

This computer matching agreement sets forth the terms, conditions, and safeguards under which VA/VBA will provide SSA with compensation and pension payment data. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for the Medicare Prescription Drug (Medicare Part D) subsidy (Extra Help). It will also enable SSA to identify individuals who may qualify for Extra Help as part of the agency's Medicare outreach efforts.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication in the **Federal Register**. The matching program will be applicable on October 2, 2017, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The

matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Mary.Ann.Zimmerman@ssa.gov.* All comments received will be available for public inspection by contacting Ms. Zimmerman at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above.

Mary Ann Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Participating Agencies:

SSA and VA/VBA.

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

Legal authorities for SSA to conduct this computer matching are sections 1860D–14(a)(3), 1144(a)(1) and (b)(1) of the Social Security Act (Act) (42 U.S.C. 1395w–114(a)(3), 1320b–14(a)(1) and (b)(1).

PURPOSE(S):

The purpose of this matching program is to set forth the conditions under which VA/VBA will provide SSA with compensation and pension payment data. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for the Medicare Prescription Drug (Medicare Part D) subsidy (Extra Help). It will also enable SSA to identify individuals who may qualify for Extra Help as part of the agency's Medicare outreach efforts.

SSA will use VA/VBA's data to determine an individual's eligibility for Extra Help and to identify such individuals to the state agencies that administer the Medicare Savings Program (MSP), unless those individuals do not consent to share their information with the state agencies.

Under section 1860D–14 of the Act, SSA is required to determine the eligibility of applicants who self-certify their income, resources, and family size for Extra Help. SSA is responsible for verifying, on a pre-enrollment basis, an applicant's income and resource allegations. SSA periodically redetermines the eligibility and subsidy amounts for these individuals, thereafter. Also, section 1144 of the Act requires SSA to conduct outreach efforts for MSP and subsidized Medicare prescription drug coverage.

CATEGORIES OF INDIVIDUALS:

The individuals whose information is involved in this matching program are:

Medicare beneficiaries who are potentially eligible for Extra Help with their Medicare prescription drug plan costs.

CATEGORIES OF RECORDS:

VA/VBA will furnish SSA with an electronic file containing compensation and pension payment data monthly. The actual matching will take place approximately the first week of every month.

SSA will conduct the match using the Social Security number, name, date of birth, and VA/VBA claim number on both the file and the Medicare Database (MDB). SSA will match VA/VBA's data with data in SSA's MDB system of records, 60–0321 to verify an individual's self-certification of eligibility for Extra Help.

SYSTEM(S) OF RECORDS:

VA/VBA will provide SSA with electronic files containing compensation and pension payment data from its SOR entitled ''Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA'' (58VA21/22/28), republished with updated name at 74 FR 14865 (April 1, 2009) and last amended at 77 FR 42593 (July 19, 2012).

SSA will match the VA/VBA data with SSA SOR 60–0321, SSA's MDB file, last published at 71 FR 42159 (July 25, 2006) and amended at 72 FR 6973 (December 10, 2007).

The systems of records involved in this matching program have routine uses permitting the disclosures needed to conduct this match.

[FR Doc. 2018–01967 Filed 1–31–18; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2018–0002]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes an extension of an OMB-approved information collection, a new information collection, and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2018–0002].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than April 2, 2018. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Request for Reconsideration—Disability Cessation—20 CFR 404.909, 416.1409—0960–0349.* When SSA determines that claimants' disabilities medically improved; ceased; or are no longer sufficiently disabling, these claimants may ask SSA to reconsider that determination. SSA uses Form SSA–789–U4 to arrange for a hearing or to prepare a decision based on the evidence of record. Specifically, claimants or their representatives use Form SSA–789–U4 to: (1) Ask SSA to reconsider a determination; (2) indicate if they wish to appear at a disability hearing; (3) submit any additional information or evidence for use in the reconsidered determination; and (4) indicate if they will need an interpreter for the hearing. The respondents are disability claimants for Social Security benefits or Supplemental Security Income (SSI) payments, or their representatives who wish to appeal an

unfavorable disability cessation determination.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–789–U4	30,000	1	13	6,500

2. *Waiver of Right to Appear—Disability Hearing—20 CFR 404.913–404.914, 404.916(b)(5), 416.1413–416.1414, 416.1416(b)(5)—0960–0534.* Claimants for Social Security disability payments or their representatives can use Form SSA–773–U4 to waive their right to appear at a disability hearing. The disability hearing officer uses the signed form as a basis for not holding a hearing, and for preparing a written decision on the claimant's request for disability payments based solely on the evidence of record. The respondents are disability claimants for Social Security benefits or SSI payments, or their representatives, who wish to waive their right to appear at a disability hearing.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–773–U4	200	1	3	10

3. *Social Security Number Verification Services—20 CFR 401.45—0960–0660.* Internal Revenue Service regulations require employers to provide wage and tax data to SSA using Form W–2, or its electronic equivalent. As part of this process, the employer must furnish the employee's name and Social Security number (SSN). In addition, the employee's name and SSN must match SSA's records for SSA to post earnings to the employee's earnings record, which SSA maintains. SSA offers the Social Security Number Verification Service (SSNVS), which allows employers to verify the reported names and SSNs of their employees match those in SSA's records. SSNVS is a cost-free method for employers to verify employee information via the internet. The respondents are employers who need to verify SSN data using SSA's records.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
SSNVS	41,387	60	2,483,220	5	206,935

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than March 5, 2018. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Statement of Interpreter—0960–NEW.* SSA and the Disability Determination Services (DDS) will use Form SSA–4321, Statement of Interpreter, when a person requiring an interpreter prefers to provide their own interpreter during an interview or conversation between the person requiring an interpreter and SSA or DDS. SSA will require the interpreter sign Form SSA–4321, and confirm, among other things, that they will not knowingly give false information; they will act as an interpreter and witness; and they will accurately interpret the interview to the best of their ability. Section 205(a) of the Social Security Act (Act), as amended (42 U.S.C. 405(a)) authorizes SSA collect this information.

Type of Request: A New Information Collection Request.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4321	5,170,399	1	5	430,867

2. *Application for Mother's or Father's Insurance Benefits—20 CFR 404.339–404.342, 20 CFR 404.601–404.603—0960–0003.* Section 202(g) of the Act provides for the payment of monthly benefits to the widow or widower of an insured individual if the surviving spouse is caring for the deceased worker's child (who is entitled to Social Security benefits). SSA uses the information on Form SSA–5–BK to determine an individual's eligibility for mother's or father's insurance benefits. The respondents are individuals caring for a child of the deceased worker who

is applying for mother's or father's insurance benefits under the Old Age, Survivors, and Disability Insurance program.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–5–F6 (paper)	6,542	1	15	1,636
Modernized Claims System	42,175	1	15	10,544
Totals	48,717			12,180

3. *Statement of Living Arrangements, In-Kind Support, and Maintenance—20 CFR 416.1130–416.1148—0960–0174.* SSA determines SSI payment amounts based on applicants' and recipients' needs. We measure individuals' needs, in part, by the amount of income they receive, including in-kind support and maintenance in the form of food and shelter provided by other people. SSA uses Form SSA–8006–F4 to determine if in-kind support and maintenance exists for SSI applicants and recipients. This information also assists SSA in determining the income value of in-kind support and maintenance SSI applicants and recipients receive. The respondents are individuals who apply for SSI payments, or who complete an SSI eligibility redetermination.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8006–F4	173,380	1	7	20,228

4. *Statement of Funds You Provided to Another and Statement of Funds You Received—20 CFR 416.1103(f)—0960–0481.* SSA uses Forms SSA–2854 (Statement of Funds You Provided to Another) and SSA–2855 (Statement of Funds You Received) to gather information to verify if a loan is bona fide for SSI recipients. The SSA–2854 asks the lender for details on the transaction, and Form SSA–2855 asks the borrower the same basic questions independently. Agency personnel then compare the two statements; gather evidence if needed; and make a decision on the validity of the bona fide status of the loan.

For SSI purposes, we consider a loan bona fide if it meets these requirements:

- Must be between a borrower and lender with the understanding that the borrower has an obligation to repay the money;
- Must be in effect at the time the cash goes to the borrower, that is, the agreement cannot come after the cash is paid; and
- Must be enforceable under State law, often there are additional requirements from the State.

SSA collects this information at the time of initial application for SSI, or at any point when an individual alleges being party to an informal loan while receiving SSI. SSA collects information on the informal loan through both interviews and mailed forms. The agency's field personnel conduct the interviews and mail the form(s) for completion, as needed. The respondents are SSI recipients and applicants, and individuals who lend money to them.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2854	20,000	1	10	3,333
SSA–2855	20,000	1	10	3,333
Totals	40,000			6,666

5. *Filing Claims Under the Federal Tort Claims Act—20 CFR 429.101–429.110—0960–0667.* The Federal Tort Claims Act is the legal mechanism for compensating persons injured by negligent or wrongful acts that occur during the performance of official duties by Federal employees. In accordance with the law, SSA accepts monetary claims filed under the Federal Tort Claims Act for damages against the United States, loss of property, personal injury, or death resulting from an SSA employee's wrongful act or omission. The regulation sections cleared under this information collection request require claimants to provide information SSA can use to investigate and determine whether to make an award, compromise, or settlement under the Federal Tort Claims Act. The respondents are individuals or entities making a claim under the Federal Tort Claims Act.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
429.102; 429.103 [1]	1			1
429.104(a)	11	1	5	1
429.104(b)	43	1	5	4
429.104(c)	1	1	5	0
429.106(b)	8	1	10	1
Totals	64			7

[1] The 1 hour represents a placeholder burden. We are not reporting a burden for this collection because respondents complete OMB-approved Form SF–95.

6. *Application for Extra Help with Medicare Prescription Drug Plan Costs—20 CFR 418.3101—0960–0696.* The Medicare Modernization Act of 2003 mandated the creation of the Medicare Part D prescription drug coverage program and the provision of subsidies for eligible Medicare beneficiaries. SSA uses Form SSA–1020 or the internet i1020, the Application for Extra Help with Medicare Prescription Drug Plan Costs, to obtain income and resource information from Medicare beneficiaries, and to make a subsidy decision. The respondents are Medicare beneficiaries applying for the Part D low-income subsidy.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1020				
(paper application form)	531,715	1	30	265,858
i1020				
(online application)	346,642	1	25	144,434
Field office interview	108,194	1	30	54,097
Totals	986,551			464,389

Dated: January 26, 2018.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2018–01947 Filed 1–31–18; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Surface Transportation Board.

ACTION: Adoption of Railroad Cost Recovery Procedures Productivity Adjustment.

SUMMARY: In a decision served on January 29, 2018, the Surface Transportation Board adopted as final its calculation of the productivity adjustment, with the linking factor for the year 2015, proposed in its September 29, 2017 decision in the same docket. *See R.R. Cost Recovery Procedures—Productivity Adjustment,* EP 290 (Sub-No. 4), slip op. at 4 (STB served Sept. 29, 2017). The productivity change for 2015, based on changes in input and output levels from 2014, is 0.939, which is a decrease of 7.8% from the rate of productivity growth in 2014 relative to 2013 (1.018). Incorporating the 2015 value with the values from 2011–2014 period produces a geometric average productivity growth of 0.994 for the five-year period 2011–2015, or -0.6% per year.

DATES: *Applicability Date:* January 29, 2018.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired, (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on the Board's website, *http://www.stb.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238.

Decided: January 25, 2018.

By the Board, Board Members Begeman and Miller.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–01966 Filed 1–31–18; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Los Angeles International Airport, Los Angeles, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration (FAA) is requesting public comment on Los Angeles World Airports' (LAWA) request to change approximately 5 acres of airport property from aeronautical use to non-aeronautical use.

The property is located at the northeast intersection of Westchester Parkway and Falmouth Avenue. The property is currently vacant land with no structures onsite. LAWA requests to develop the land with the Argo Drain Sub-Basin Facility. The Sub-Basin Facility is primarily an underground storm water treatment facility designed to potentially allow open space uses on the surface. The Sub-Basin Facility also includes two above-ground elements: A pump facility and blower building.

Documents reflecting the LAWA's request are available, by appointment only, at the FAA Los Angeles Airports District Office.

DATES: Comments must be received on or before March 5, 2018.

ADDRESSES: Documents are available for review at the FAA Los Angeles Airports District Office, 15000 Aviation Boulevard, Room 3000, Lawndale, CA 90261, 310–725–3608. Written comments on LAWA's request must be delivered or mailed, 2 copies to: Lemuel del Castillo, 15000 Aviation Boulevard Room 3000, Lawndale, CA 90261, 310–725–3651.

FOR FURTHER INFORMATION CONTACT: Lemuel del Castillo, 15000 Aviation Boulevard, Room 3000, Lawndale, CA 90261, 310–725–3651.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for aeronautical purposes.

The following is a brief overview of the request: The project site is located within the City of Los Angeles, on LAWA's property, adjacent to LAX. The project site is located on the east and west side of Falmouth Avenue, just north of Westchester Parkway. The project site is vacant land with no structures currently onsite. LAWA requests to develop the land with the Argo Drain Sub-Basin Facility (Sub-Basin Facility) to address airport environmental compliance needs. The Sub-Basin Facility is primarily an underground storm water treatment facility designed to potentially allow open space uses on the surface. The Sub-Basin Facility also includes two above-ground elements: a pump facility and blower building. LAWA's industrial areas, existing and future capitals improvement projects will need multiple independent storm water treatment facilities. This project will avoid the construction of multiple independent facilities. The Argo-Drain Sub-Basin will allow LAWA to achieve a campus-wide approach to compliance with Low Impact Development requirements. It will also assist with the overall compliance strategy for Industrial General Permit requirements. LAWA and Los Angeles Bureau of Sanitation will have a lease agreement in place in order to address the share of financial responsibility for the Sub-Basin Facility.

Issued in Lawndale, California, on January 23, 2018.

David F. Cushing,

Manager, Los Angeles Airports District Office, Western-Pacific Region.

[FR Doc. 2018–02014 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2001–10214]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on December 22, 2017, the Minnesota Northern Railroad (MNN) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223. FRA assigned the petition Docket Number FRA–2001–10214.

Specifically, the MNN seeks to extend its existing waiver from 49 Code of Federal Regulations (CFR) § 223.13, regarding the glazing on caboose (MNN 019.

The MNN states that the circumstances at the time of the original grant of waiver have not changed. The caboose is still only used on special occasions as an office car for officials and private persons for railroad business purposes. The territory that it operates in is primarily rural.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 19, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–01958 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0006]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on January 5, 2018, Northern Plains Railroad (NPR), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 229. FRA assigned the petition Docket Number FRA–2018–0006.

Specifically, NPR seeks a waiver of compliance from a portion of 49 CFR 229.47, *Emergency brake valve,* for five SD60F locomotives (Numbers 5513,

5517, 5518, 5525, and 5535) that were purchased from Canadian National Railway (CN). These units do not have the required emergency brake valve installed at the rear exit door.

NPR is a regional railroad operating on a 350-mile network in North Dakota and western Minnesota. NPR's primary commodities handled include wheat, soybeans, corn, aggregates, and miscellaneous industrial products. The maximum operating speed on the NPR is 25 miles per hour. NPR has had no history of vandalism, two reportable train accidents since 2013, and an injury frequency rate of under one percent for the last two years. NPR indicates that these units will be used in road service and will be paired together. NPR does not see this waiver of compliance adversely affecting safety.

NPR believes that 49 CFR 229.47 was established to provide a crew member a means of initiating an emergency stop when they are unable to give the locomotive operator a visual signal to stop while making a reverse movement. This would only apply to locomotives that do not have an exposed walkway on the end of the car body. The five full body locomotives are all equipped with a walkway and corner steps that provide a position for crew to direct the locomotive engineer while making a reverse movement. Because these end platforms, which are identical to that of a regular body locomotive, are available and equipped with corner steps, NPR crews would not place themselves inside the locomotive engine compartment to direct a reverse movement, thereby making the application of this emergency brake valve meaningless. Therefore, NPR is requesting a waiver from the requirement that an emergency brake pipe valve be installed adjacent to the rear door for these five units.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 19, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–01962 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–27556]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on January 17, 2018, SMS Rail Service petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223. FRA assigned the petition Docket Number FRA–2007–27556.

Specifically, SMS Rail Service (SLRS) is seeking an extension of its waiver of compliance from 49 CFR 223.11, *Requirements for existing locomotives,* for the glazing in one of its locomotives, SLRS 412. Locomotive SLRS 412 is a Baldwin VO–1000, built in 1945, and is owned by the United Railroad Historical Society, a non-profit organization. The locomotive is currently out of service; however, SLRS would like to be able to operate it again in limited service should they be able to facilitate repairs. Locomotive SLRS 412 would be operated in limited use and exclusively within the Pureland Industrial Park in Bridgeport, NJ. SLRS represents that there is no history of broken glazing on this railroad, and no overhead bridges or tunnels on the trackage. Maximum operating speed would be 10 miles per hour.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 19, 2018 will be considered by FRA

before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–01960 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0005]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on January 2, 2018, the National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238, *Passenger Equipment Safety Standards.* FRA assigned the petition docket number FRA–2018–0005.

Amtrak plans to lease two articulated Series 8 trainsets from Tren Articulado Ligero Goicoechea Oriol (Talgo) to support its Cascade intercity service. The Cascade service operates between Eugene, OR and Vancouver, BC. The service uses both Talgo Series 6 and Series 8 trainsets. Amtrak currently has two Series 8 trainsets now in service that were purchased by the state of Oregon in 2013. The two train sets to be leased from Talgo were originally built for the state of Wisconsin in 2013 but never purchased. The trainsets have never been operated but have been stored in serviceable condition at the Amtrak Beech Grove facility in Beech Grove, IN.

Amtrak requests relief for the two Talgo Series 8 trainsets from the requirements of 49 CFR 238.131(b), *Safety System for Manual and Powered Side Doors—propulsion interlock,* which applies to passenger cars beginning service after February 5, 2018, and § 238.133, *Exterior side door safety systems—all passenger cars and locomotives used in a passenger service.*

The Talgo Series 8 trainsets currently in operation have been in service since 2013 and are therefore exempt from the requirements of §§ 238.131(b) and 238.133 because they were ordered prior to April 5, 2016 and placed into service prior to February 5, 2018. The Talgo Series 8 trainsets to be leased are identical to the Series 8 trainsets currently in operation. The relief would apply only to the trainsets to be leased from Talgo that have never been placed in service.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 19, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–01961 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2002–14116]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on January 23, 2018, Grand Trunk Western Railroad Company (GTW), which operates under the trade name Canadian National Railway (CN), has petitioned the Federal Railroad Administration (FRA) for an extension of an existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 236.408, *Route Locking,* and to make the waiver of compliance permanent. FRA assigned the petition docket number FRA–2002–14116.

In 2002 CN requested permission to operate the 32nd Street Crossover, power operated switches, at milepost 333.28, in the existing traffic control system, at Port Huron, Michigan, on the Flint Subdivision, Midwest Division, without Route Locking. The request was based on the fact that the crossover design is not uncommon in the railroad industry, and provides all the requisite components and safety features of a standard interlocking, or an electric lock location. FRA initially granted CN's request in 2003, extending the relief in 2008 and 2013.

CN states that it has operated under this waiver for fifteen years without

incident, therefore it believes that making the relief permanent is appropriate.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 19, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

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Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–01959 Filed 1–31–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Funds Availability (NOFA) Inviting Applications for Financial Assistance (FA) Awards or Technical Assistance (TA) Grants Under the Native American CDFI Assistance (NACA Program) Fiscal Year (FY) 2018 Funding Round

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2018–NACA.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.012.

Key Dates:

TABLE 1—FY 2018 NACA PROGRAM FUNDING ROUND—CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	February 28, 2018	11:59 p.m	Service Request via Award Management Information System (AMIS).
CDFI certification applications	March 2, 2018	11:59 p.m	Electronically via AMIS.
Create AMIS Account (New Applicants)	March 2, 2018	11:59 p.m	AMIS.
SF424 (Application for Federal Assistance)	March 2, 2018	11:59 p.m	Electronically via *Grants.gov.*
Last day to contact NACA Program staff	April 2, 2018	5:00 p.m	Service Request via AMIS or CDFI Fund Helpdesk: 202–653–0421.
NACA Program Application for Financial Assistance (FA) *or* Technical Assistance (TA).	April 4, 2018	11:59 p.m	AMIS.

Executive Summary: Through the NACA Program, the Community Development Financial Institutions (CDFI) Fund provides (i) FA awards of up to $1 million to Certified Community Development Financial Institutions (CDFIs) serving Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical Areas (collectively, ''Native Communities'') to build their financial capacity to lend to their Target Markets, and (ii) TA grants of up to $150,000 to build Certified, Certifiable, and Emerging CDFIs' organizational capacity to serve their Target Markets and Sponsoring Entities ability to create Certified CDFIs that serve Native Communities. All awards provided through this NOFA are subject to funding availability.

I. Program Description

A. *History:* The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. Since its creation in 1994, the CDFI Fund has awarded more than $2.5 billion to CDFIs, community development organizations, and financial institutions through the Community Development Financial Institutions Program (CDFI Program), the Native American CDFI Assistance Program (NACA Program), the Bank Enterprise Award Program (BEA Program), the Capital Magnet Fund, and the Financial Education and Counseling Pilot Program. In addition, the CDFI Fund has allocated more than $50.5 billion in tax credit allocation authority through the New Markets Tax Credit Program (NMTC Program) and has guaranteed $1.36 billion in bonds for Eligible CDFIs through the CDFI Bond Guarantee Program.

B. *Priorities:* Through the NACA Program's FA awards and TA grants, the CDFI Fund invests in and builds the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve Native Communities.

C. *Program Regulations:* The regulations governing the NACA Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and are used by the CDFI Fund to govern, in general, the NACA Program, setting forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the Application; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200; 78 **Federal Register** 78590) (the Uniform Requirements) for a complete understanding of the NACA Program. Capitalized terms in this NOFA are defined in the authorizing statute, the Regulations, this NOFA, the Application, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and related materials.

D. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200):* The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award agencies must follow. When evaluating award applications, awarding agencies must evaluate the risks to the program posed by each applicant, and each applicant's merits and eligibility. These requirements are designed to ensure that applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant's financial stability, quality of management systems, the soundness of its business plan, history of performance, ability to achieve measurable impacts through its products and services, and audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

E. *Funding Limitations:* The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA. The CDFI Fund also reserves the right to reallocate funds from the amount that is anticipated to be available through this NOFA to other CDFI Fund initiatives that are designed to benefit Native American, Native Hawaiian, and Alaskan Native communities, particularly if the CDFI Fund determines that the number of awards made through this NOFA is fewer than projected.

II. Federal Award Information

A. *Funding Availability:*

1. *FY 2018 Funding Round:* The CDFI Fund expects to award, through this NOFA, approximately $15.5 million as indicated in the following table:

TABLE 2—FY 2018 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories (see definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2018	Estimate average amount awarded in FY 2018	Average amount awarded in FY 2017
		Minimum	Maximum			
FA	$10.95	$150,000	$1,000,000	19	$577,000	$577,000
Persistent Poverty Counties—Financial Assistance (PPC–FA)	1.55	100,000	300,000	8	195,000	195,000
TA	3	10,000	150,000	20	147,000	147,000
Total (FA, PPC–FA, and TA)	15.5	.....	.....	47	.....	.....
Disability Funds—Financial Assistance (DF–FA) *	2.5	100,000	500,000	10	250,000	N/A
Healthy Food Financing Initiative—Financial Assistance (HFFI–FA) *	22	500,000	5,000,000	10	2,200,000	1,700,000

* DF–FA and HFFI–FA appropriation will be allocated in one competitive round between the NACA and CDFI Program NOFAs.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. *Funding Availability for the FY 2018 Funding Round:* Funds for the FY 2018 Funding Round are subject to change based on passage of a final FY 2018 budget; if Congress does not appropriate funds for the NACA Program there will not be an FY 2018 Funding Round. If funds are appropriated, the amount of such funds may be greater or less than the amounts set forth above. The CDFI Fund reserves the right to contact applicants to seek additional information in the event that final FY 2018 appropriations for the NACA Program change any of the requirements of this NOFA. As of the date of this NOFA, the CDFI Fund is operating under a continuing funding resolution as enacted by the Extension of Continuing Appropriations Act, 2018 (Public Law 115–120) and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Pub. L.115–56).

3. *Anticipated Start Date and Period of Performance:* The CDFI Fund anticipates the period of performance for the FY 2018 Funding Round will begin in late September 2018. Specifically, the period of performance for TA grants begins with the date of the notice of the award and includes either (i) an Emerging or Certifiable CDFI Recipient's three full consecutive fiscal years after the date of the notice of the award or (ii) a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement or (iii) a Sponsoring Entity award Recipient's four full years after the award announcement, during which the Recipient must meet the performance goals set forth in the Assistance Agreement. The period of performance for FA awards begins with the date of the award announcement and includes a Recipient's three full consecutive fiscal years after the date of the notice of the award, during which time the Recipient must meet the performance goals set forth in the Assistance Agreement.

B. *Types of Awards:* Through the NACA Program, the CDFI Fund provides two types of awards: Financial Assistance (FA) and Technical Assistance (TA) awards. *An Applicant*

may submit an Application for a TA grant or an FA award, but not both.

1. *FA Awards:* FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide an FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

2. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Awards:* PPC–FA awards will be provided as a supplement to FA awards; therefore, only those Applicants that are selected to receive an FA award through the NACA Program FY 2018 Funding Round will be eligible to receive a PPC–FA award. PPC–FA awards can be in the form of loans, grants, Equity Investment, deposits and credit union shares. The form of the PPC–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for PPC–FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a PPC–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

The PPC–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or amount.

3. *Disability Funds—Financial Assistance (DF–FA) Awards:* DF–FA awards will be provided as a supplement to FA awards; therefore, only those Applicants that have been selected to receive an FA award through the NACA Program FY 2018 Funding Round will be eligible to receive a DF–FA award. DF–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the DF–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for DF–FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a DF–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application. The DF–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or amount.

4. *Healthy Food Financing Initiative—Financial Assistance (HFFI–FA) Awards:* HFFI–FA awards will be provided as a supplement to FA awards; therefore, only those Applicants that have been selected to receive an FA award through the NACA Program FY 2018 Funding Round will be eligible to receive an HFFI–FA award. HFFI–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the HFFI–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for HFFI–FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide an HFFI–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application. The HFFI–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or amount.

5. *TA Grants:* TA is provided in the form of grants. The CDFI Fund reserves the right, in its sole discretion, to provide a TA grant in an amount other than which the Applicant requests; however, the TA grant amount will not exceed the Applicant's request as stated in its Application.

C. *Eligible Activities:*

1. *FA Awards:* FA, PPC–FA, DF–FA, and HFFI–FA award funds can be expended for activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. FA Recipients must meet Performance Goals, which will be derived from projections and attestations provided by the Applicant in its application, to achieve one or more of the following FA Objectives: (i) Increase Volume of Financial Products or Financial Services in an Eligible Market(s) or in the Applicant's approved Target Market; (ii) Serve New Geographic Area or Areas; (iii) Provide New Financial Products in an Eligible Market(s) or in the Applicant's approved Target Market, New Financial Services in an Eligible Market(s) or in the Applicant's approved Target Market, or New Development Services in an Eligible Market(s) or in the Applicant's approved Target Market; and (iv) Serve New Targeted Population or Populations. At the end of each year of the period of performance, fifty (50) percent or more of the Financial Products closed by NACA Recipients must be in Native Communities. FA awards can only be used for Direct Costs associated with an eligible activity; no indirect expenses are allowed. Up to 15 percent of the FA award can be used for Direct Administrative Expenses associated with an eligible FA activity. ''Direct Administrative Expenses'' shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Requirements, which are incurred by the Recipient to carry out the Financial Assistance. Direct Costs incurred to provide Development Services or Financial Services do not constitute Direct Administrative Expenses. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the five eligible activity categories are defined as follows:

TABLE 3—FA, PPC–FA, DF–FA, AND HFFI–FA ELIGIBLE ACTIVITY CATEGORIES

FA eligible activity	FA eligible activity definition—all FA eligible activities must be in an eligible market or the applicant's approved target market	Eligible CDFI institution types
i. Financial Products	FA expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees; in the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs. For HFFI–FA, however, the purchase of loans originated by certified CDFIs is not an Eligible Activity.	All.
ii. Financial Services	FA expended for providing checking, savings accounts, check cashing, money orders, certified checks, deposit taking, safe deposit box services, and other similar services.	Insured Depository Institutions and Depository Institution Holding Company only. Not applicable for HFFI-FA Recipients.
iii. Loan Loss Reserves	FA set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.
iv. Development Services	FA expended for activities undertaken by a CDFI, its Affiliate or contractor that promote community development and shall prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include, financial or credit counseling; homeownership counseling; and business planning and management assistance.	All.
v. Capital Reserves	FA set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or provide financing, or for related purposes as the CDFI Fund deems appropriate.	Insured Depository Institutions and Depository Institution Holding Company only. Not applicable for DF–FA.

Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income or are African American, Hispanic or American Indian, Native Hawaiians residing in Hawaii, Native Alaskans residing in Alaska, and Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

2. *DF–FA Award:* DF–FA award funds can only be expended for eligible FA activities referenced in Table 3 to directly or indirectly benefit individuals with disabilities. The DF–FA Recipient must close Financial Products for the primary purpose of directly or indirectly benefiting people with disabilities in an amount equal to or greater than 85 percent of the total DF–FA provided. Such financing activities have a primary purpose of directly or indirectly benefiting individuals with disabilities where the majority of the DF–FA supported loans or investments benefit individuals with disabilities. Eligible DF–FA financing activities may include, among other activities, loans to develop or purchase affordable, accessible, and safe housing; loans to provide or facilitate employment opportunities; and loans to purchase assistive technology.

For the purposes of DF–FA, a person with a Disability is: A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment, as defined by the American Disabilities Act (ADA) at *https://www.ada.gov/cguide.htm.*

3. *TA Grants:* TA grant funds can be expended for the following seven eligible activity categories: (i) Compensation—personnel services; (ii) Compensation—fringe benefits; (iii) Professional Service Costs; (iv) Travel Costs; (v) Training and Education Costs; (vi) Equipment and other capital expenditures; and (vii) Supplies. Each of the eligible activity categories will not be authorized for indirect costs or an associated indirect cost rate. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the seven eligible activity categories are defined as follows:

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES AS SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation—personnel services.	TA paid to cover salaries of the Applicant's personnel that are paid currently or accrued by the Applicant for work performed directly related to carrying out the purpose of the TA grant (including activities related to becoming certified as a CDFI). Any work performed directly but unrelated to the purposes of the TA grant cannot be paid as Compensation through a TA grant. For example, the salaries for building maintenance would not carry out the purpose of a TA grant and would be deemed unallowable.
(ii) Compensation—fringe benefits	TA paid to cover costs of the Applicant's personnel employment (other than the employees' salaries). The costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity and consistently applied organizational policies.

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES AS SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS—Continued

(iii) Professional service costs	TA used to pay for professional and consultant services (*e.g.,* such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (*e.g.,* credit analysis, portfolio management), and who are not officers or employees of the Recipient. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. Professional and consultant services must build the capacity of the CDFI. For example, professional services that provide direct development services to the customers does not build the capacity of the CDFI to provide those services and would not be eligible.
(iv) Travel costs	TA used to pay expenses for transportation, lodging, subsistence, and related items incurred by the Applicant's personnel (does not include consultants or board members) who are on travel status on business related to the TA grant. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(v) Training and education costs	TA used to pay the cost of training and education provided for employee development. TA can only be used to pay for training costs incurred by the Applicant's personnel (does not include consultants or board members).
(vi) Equipment	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vii) Supplies	TA used to pay for tangible personal property with a per unit acquisition cost of less than $5,000. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(viii) Unallowable Costs	The following costs are unallowable and cannot be paid for with a TA grant (but not limited to per the UAR): • Selling or marketing products or services of the non-federal entity that are not directly related to building the capacity of the CDFI; Advertising media, including printing of materials, the cost of displays, demonstrations, and exhibits that are not directly related to building the capacity of the CDFI; • Promotional items and memorabilia; • Advertising and public relations designed solely to promote the non-Federal entity that are not directly related to building the capacity of the CDFI; • Facilities acquisition/development costs; • Fees, including fees paid to brokers, promoters, organizers, management consultants, attorneys, accountants, or investment counselor; • Memberships in country clubs or organizations whose primary purpose is lobbying; • Audit costs for audits either: (1) Required under the Single Audit Act but have not been conducted or have been conducted but not in accordance with the Single Audit Act requirements; or (2) for a non-Federal entity that is exempted from having an audit conducted in the Single Audit act.

4. *HFFI–FA Award:* HFFI–FA award funds can only be expended for eligible FA activities referenced in Table 3. The HFFI–FA investments must comply with the following guidelines:

a. Recipient must close Financial Products for Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets in its Target Market in an amount equal to or greater than 100 percent of the total HFFI Financial Assistance provided. Eligible financing activities to Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets require that the majority of the loan or investment be devoted to offering a range of Healthy Food choice, which may include, among other activities, investments supporting an existing retail store or wholesale operation upgrade to offer an expanded range of Healthy Food choices, or supporting a nonprofit organization that expands the availability of Healthy Foods in underserved areas.

b. Recipient must demonstrate that it has closed Financial Products to Healthy Food Retail Outlets located in Food Deserts in the Recipient's Target Market in an amount equal to 75 percent of the total HFFI Financial Assistance provided.

Definitions

Healthy Foods. Healthy Foods include unprepared nutrient-dense foods and beverages as set forth in the USDA Dietary Guidelines for Americans 2015–2020 including whole fruits and vegetables, whole grains, fat free or low-fat dairy foods, lean meats and poultry (fresh, refrigerated, frozen or canned). Healthy Foods should have low or no added sugars, and be low-sodium, reduced sodium, or no-salt-added. (See USDA Dietary Guidelines: *http://www.choosemyplate.gov/dietary-guidelines*).

Healthy Food Retail Outlets. Commercial sellers of Healthy Foods including, but not limited to, grocery stores, mobile food retailers, farmers markets, retail cooperatives, corner stores, bodegas, stores that sell other food and non-food items along with a range of Healthy Foods, as those terms are determined and defined by the CDFI Fund in the Assistance Agreement and related compliance materials.

Healthy Food Non-Retail Outlets. Wholesalers of Healthy Foods including, but not limited to, wholesale food outlets, wholesale cooperatives, or other non-retail food producers that supply for sale a range of Healthy Food options; entities that produce or distribute Healthy Foods for eventual retail sale, and entities that provide consumer education regarding the consumption of Healthy Foods, as those terms are determined and defined by the CDFI Fund in the Assistance Agreement and related compliance materials.

Food Deserts. Distressed geographic areas where either a substantial number

or share of residents has low access to a supermarket or large grocery store. For the purpose of satisfying this requirement, a Food Desert must either: (1) Be a census tract determined to be a Food Desert by the U.S. Department of Agriculture (USDA), in its USDA Food Access Research Atlas; (2) be a census tract adjacent to a census tract determined to be a Food Desert by the USDA, in its USDA Food Access Research Atlas; which has a median family income less than or equal to 120 percent of the applicable Area Median Family Income; or (3) be a Geographic Unit as defined in 12 CFR part 1805.201(b)(3)(ii)(B), which (i) individually meets at least one of the criteria in 12 CFR part 1805.201(b)(3)(ii)(D), and (ii) has been identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

5. *PPC–FA Award:* PPC–FA award funds can only be expended for eligible FA activities referenced in Table 3. The PPC–FA Recipient must close Financial Products to an Eligible Market or in the Applicant's approved Target Market in a Persistent Poverty Counties (PPC) in an amount equal to or greater than 100 percent of the total PPC Financial Assistance provided.

The specific counties that meet the criteria for ''persistent poverty'' can be found at: *https://www.cdfifund.gov/Documents/Persistent%20Poverty%20Counties%20CDFI%20Fund%20July6-2017.xlsx.*

III. Eligibility Information

A. *Eligible Applicants:* For the purposes of this NOFA, the following tables set forth the eligibility criteria to be in contention to receive an award from the CDFI Fund, along with certain definitions of terms. There are four categories of Applicant eligibility criteria: (1) CDFI certification criteria (Table 5); (2) requirements that apply to all Applicants (Table 6); (3) requirements that apply to TA Applicants (Table 7); and (4) requirements that apply to FA Applicants (Table 8).

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS

Certified CDFI	• An entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.
Certifiable CDFI	• An entity that has submitted a CDFI certification application to the CDFI Fund demonstrating that it meets the CDFI certification requirements but which has not yet been officially certified. (See Table 12 for application submission deadlines.) • The CDFI Fund will not enter into an Assistance Agreement or make an FA award payment unless and until an Applicant is a Certified CDFI. • The CDFI Fund will enter into an Assistance Agreement if the Applicant is awarded a TA award regardless of the Applicant's certification status.
Emerging CDFI (TA Applicants)	• A non-Certified entity that has not submitted a CDFI certification application but demonstrates to the CDFI Fund in its Application that it has an acceptable plan to meet CDFI certification requirements by the end of its period of performance, or another date that the CDFI Fund selects. • An Emerging CDFI that has prior award(s) will be held to the CDFI certification performance goal and measure(s) stated in its prior Assistance Agreement(s). • Emerging CDFIs may only apply for TA grants; they are not eligible to apply for FA awards. • Emerging CDFI selected to receive a TA grant will be required to become a Certified CDFI by a date specified in the Assistance Agreement.
Sponsoring Entity	• Sponsoring Entities include any legal organization that primarily serves Native Community with ''primary'' meaning, at least 50 percent of its activities are directed toward the Native Community. • An eligible organization that proposes to create a separate legal organization that will become a Certified CDFI serving Native Communities. • Sponsoring Entities may only apply for TA grants; they are not eligible to apply for FA awards. • Each Sponsoring Entity selected to receive a TA grant will be required to create and certify an Emerging CDFI by the dates specified in the Assistance Agreement.
Definition of Native Other Targeted Population as Target Market.	The CDFI Fund uses the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997), as amended and supplemented: • American Indian, Native American, or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment; and • Native Hawaiian (living in Hawaii): A person having origins in any of the original peoples of Hawaii.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant	• Only the entity that will carry out the proposed award activities can apply for an award (*i.e.*, the intended Recipient, other than Depository Institution Holding Companies (see below) and Sponsoring Entities). Recipients cannot create a new legal entity to carry out the proposed award activities (except for Sponsoring Entities). • The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services. • An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below).
Application type and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the required application documents listed in Table 10. • The CDFI Fund will only accept Applications that use the official application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants have a two-step process that requires the submission of application documents on two separate deadlines and locations: (1) The SF–424 in *Grants.gov* and (2) all other required application materials in AMIS.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

	• *Grants.gov* and the SF–424: ○ *Grants.gov:* Applicants must submit the Office of Management and Budget (OMB) Standard Form (SF) OMB SF–424, Application for Federal Assistance. ○ All Applicants must register in the *Grants.gov* system to successfully submit an application. The *Grants.gov* registration process can take 30 days or more to complete. The CDFI Fund strongly encourages applicants to register as early as possible. ○ The CDFI Fund will not extend the SF–424 (or AMIS) application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF–424. ○ The SF–424 must be submitted in *Grants.gov* on or before March 2, 2018, the deadline listed in Table 1 and Table 12. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. ○ The deadline for the *Grants.gov* submission is before the AMIS deadline. ○ The SF–424 must be submitted under the NACA Program Funding Opportunity Number. ○ If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the application will be deemed ineligible. • AMIS and all other required application materials: ○ AMIS is an enterprise-wide information technology system that replaced the myCDFI Fund portal. Applicants will use AMIS to submit and store organization and application information with the CDFI Fund. ○ Applicants are only allowed one NACA Program Application submission in AMIS. ○ Each Application in AMIS must be signed by an Authorized Representative. ○ Applicants must ensure that the Authorized Representative is authorized to sign legal documents on behalf of the organization; consultants working on behalf of the organization cannot be designated as Authorized Representatives. ○ Only the Authorized Representative or Application Point of Contact, included in the Application, can submit the Application in AMIS. ○ All required application materials must be submitted in AMIS on or before the deadline specified in Tables 1 and 12.
Employer Identification Number (EIN).	• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization.
Dun & Bradstreet, (DUNS) number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov*. • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization.
System for Award Management (SAM).	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants must have a DUNS number and an EIN number in order to register in SAM. • Applicants must be registered in SAM before they can submit an SF–424 in *Grants.gov*.
AMIS Accounts	• Each Applicant must register as an organization in AMIS and submit all required application materials through the AMIS portal. • The Application of any organization that does not properly register in AMIS by the deadline set forth in Table 1–FY 2018 NACA Program Funding Round Critical Deadlines for Applicants will be rejected without further consideration. • The Authorized Representative and/or Application Point of Contact must be included as ''users'' in the Applicant's AMIS account. • An Applicant that fails to properly register and update its AMIS account may miss important communication from the CDFI Fund or not be able to successfully submit an Application.
501(c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible for the receipt of a CDFI or NACA Program award.
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
Depository Institution Holding Company Applicant.	• In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • Authorized representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Insured CDFI—Insured Credit Union and Insured Depository Institution.	• To be eligible for an award, each Insured Depository Institution Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively), by its Federal regulator of at least ''3''. • Organizations with CAMELS/CAMEL ratings of ''4 or 5'' will not be eligible for awards. • The CDFI Fund will also evaluate materials concerns identified by the Appropriate Federal Banking Agency in determining eligibility of Insured Depository Institution Applicants.
Use of award	• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the FA or TA Eligible Activity Categories (see Section II.C).

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

	• Awards cannot be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others without the CDFI Fund's prior written consent (other than Depository Institution Holding Company Applicants). • The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.
Requested award amount	• An Applicant must state its requested award amount in the Application in AMIS. An Application that does not include this amount will not be allowed to submit an Application.
Pending resolution of noncompliance.	• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues of any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.
Noncompliance status	• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a determination that such entity is noncompliant with a previously executed agreement and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a NACA Program loan within five years of the Application deadline.

TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS

CDFI certification status	Certified, Certifiable, Emerging CDFIs, or Sponsoring Entities (see definitions in Table 5).
Matching funds	• Matching funds documentation is not required for TA awards.
Limitation on Awards	• An Emerging CDFI serving Native Communities will be allowed to receive no more than three TA awards as an uncertified CDFI. • A Sponsoring Entity is only eligible to apply for an award if (i) it does not have an active prior award or (ii) the certification goal in its active award's Assistance Agreement has been satisfied and it proposes to create another CDFI that will serve one or more Native Communities.
Proposed Activities	• Applicants must propose to directly undertake eligible activities with TA awards. For example, an uncertified CDFI Applicant must propose to become certified as part of its application and a Certified CDFI Applicant must propose activities that build its capacity to serve its Target Market or an Eligible Market. • With the exception of Sponsoring Entities, Applicants may not propose to use a TA award to create a separate legal entity to become a certified CDFI or otherwise carryout the TA award activities.
Target Market	• TA Applicants must demonstrate that the Certified, Certifiable, Emerging CDFI, or the CDFI to be created by the Sponsoring Entity will primarily serve one or more Native Community as its Target Market.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS

CDFI certification status	• Each FA Applicant must be a Certified CDFI prior to the announcement of award decisions. • The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report, if the CDFI Fund has not yet made a final compliance determination.
Activities in Native Communities	• For consideration under this NOFA, each FA Applicant must: ○ Demonstrate that at least 50 percent of its past activities were in one or more Native Communities; and ○ describe how it will target its lending/investing activities to one or more Native Communities.
Target Market	• For consideration under this NOFA, an FA Applicant's certification Target Market must have one or more of the following characteristics: ○ For qualifying with an *investment area* Target Market, the Applicant must demonstrate that the investment area approved for certification is *also* a geographic area of Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau designated Tribal Statistical Areas; and/or ○ For qualifying with an *Other Targeted Population (OTP)* Target Market, the applicant's Target Market approved for certification must be an OTP of Native Americans or American Indians, including Alaska Natives living in Alaska and Native Hawaiians living in Hawaii. • Any FA Applicant whose certification Target Market does not meet either of the conditions above will not be eligible for an FA award under this NOFA.
Community collaboration	• All FA Applicants must demonstrate strong community collaboration with Native Communities.
Matching funds documentation	• All Applicants must submit acceptable documentation attesting that they have received or will receive matching funds. Applicants that do not submit the Matching Funds Excel Workbook documenting the source of their matching funds will not be evaluated. • Awards will be limited to no more than two times the amount of In-Hand or Committed matching funds documentation provided at the time of Application. • Awards will be obligated in like form to the matching funds provided at time of Application. See Table 9. Matching Funds ''Determination of Award Form'' for additional guidance. • Award payments from the CDFI Fund will require eligible dollar-for-dollar In-Hand matching funds for the total payment amount. Recipients will not receive a payment until 100 percent of their matching funds are In-Hand. • The CDFI Fund will reduce and de-obligate the remaining balance of any Award that does not demonstrate full dollar-for-dollar matching funds equal to the announced award amount by the end of the Matching Funds Window.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS—Continued

$5 Million funding cap	• The CDFI Fund is prohibited from obligating more than $5 million in CDFI and NACA Program awards, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period. • For purposes of this NOFA and subject to final FY 2018 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2016 and 2017 funding rounds, as well as the requested FY 2018 award, excluding DF–FA and HFFI–FA awards. The CDFI Fund will make the FY 2018 funding round award announcements after September 10, 2018.
FA Applicants with Community Partners.	• A NACA Applicant can apply for assistance jointly with a Community Partner. The NACA Applicant would complete the NACA Program Application for (FA) and would address the Community Partnership in its business plan and other sections of the Application as specified in the guidance materials. • The NACA Applicant must be either a Certified or Certifiable CDFI as defined in Table 5. • An Application with a Community Partner must: ○ Describe how the NACA Applicant and Community Partner will each participate in carrying out the partnership and how the partnership will enhance activities serving the investment area or targeted population. ○ Demonstrate that the Community Partnership activities are consistent with the strategic plan submitted by the NACA Applicant. • Assistance provided upon approval of an Application with a Community Partner shall only be entrusted to the NACA Applicant and shall not be used to fund any activity carried out directly by the Community Partner or an Affiliate or Subsidiary thereof.
PPC–FA	• All PPC–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all NACA FA award eligibility requirements; and ○ Provide a PPC–FA award request amount in AMIS.
DF–FA	• All DF–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all NACA FA award eligibility requirements; ○ Submit the DF–FA Application; and ○ Provide a DF–FA award request amount in AMIS.
HFFI–FA	• All HFFI–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all NACA FA award eligibility requirements; ○ Submit the HFFI–FA Application; and ○ Provide a HFFI–FA award request amount in AMIS.

B. *Matching Funds Requirements:* In order to receive an FA award, an Applicant must provide evidence of eligible dollar-for-dollar matching funds and attest that it can provide acceptable documentation upon the CDFI Fund's request. An Applicant that uses Retained Earnings or Equity Investments must provide documentation of eligible dollar-for-dollar matching funds at the time of application submission. The CDFI Fund will review matching funds information, attestations, and matching funds documentation, if applicable, prior to award payment and will pay funds based upon eligible In-Hand matching funds (see Table 9 for the definition of In-Hand). The CDFI Fund encourages Applicants to review the Regulations at 12 CFR 1805.500, the Uniform Requirements, and the matching funds guidance materials available on the CDFI Fund's website. Table 9 provides a summary of the matching funds requirements; additional details are set forth in the Application materials.

TABLE 9—MATCHING FUNDS REQUIREMENTS

In-Hand matching funds definition	• Matching funds are In-Hand when the Applicant receives payment for the matching funds from the matching funds source and has acceptable documentation that can be provided to the CDFI Fund upon request. Acceptable In-Hand documentation must show the source, form (e.g., grant, loan, deposit, and Equity Investment), amount received, and the date the funds came into physical possession of the Applicant. • The following documentation, depending on the matching funds type, must be available to be provided to the CDFI Fund upon request: • Loan—the loan agreement and/or promissory note; • grant—the grant letter or agreement; • equity investment—the stock certificate, documentation of total equity outstanding, and shareholder agreement; • retained earnings—Retained Earnings Calculator and audited financial statements or call reports from regulating entity for each fiscal year reported in Retained Earnings Calculator; • third party in-kind contribution- evidence of receipt of contribution and valuation; • deposits—certificates of deposit agreement; • secondary capital—secondary capital agreement and disclosure and acknowledgement statement; AND • clearly legible documentation that demonstrates actual receipt of the matching funds including the date of the transaction and the amount, such as a copy of a check or a wire transfer statement. • Applicants must provide information on their In-Hand matching funds in the Matching Funds Breakout Table Excel Workbook (refer to Table 10—Required Application Documents) which must be submitted at the time of Application.

TABLE 9—MATCHING FUNDS REQUIREMENTS—Continued

	• Although Applicants are not required to provide further documentation for In-Hand matching funds at the time of Application submission, other than for Retained Earnings and Equity Investments, they must be able to provide documentation to the CDFI Fund upon request.
Matching funds requirements by application type.	The following Applicants must provide evidence of acceptable matching funds: • NACA FA Applicants applying for FA, PPC–FA, and DF–FA (upon request) *; and • HFFI–FA Applicants (upon request).* TA Applicants are not required to provide matching funds. * The matching funds requirement for HFFI–FA and NACA FA applicants was waived in the appropriations bill for FY 2017 and the final FY 2018 appropriations are still pending. HFFI–FA and NACA FA applicants are not required to submit matching funds for their award requests at the time of application. However, the CDFI Fund reserves the right to request matching funds from HFFI–FA and NACA FA applicants if matching funds are not waived in the final FY 2018 NACA Program appropriation.
Amount of required match	Applicants must provide evidence of eligible, In-Hand, dollar-for-dollar, non-Federal matching funds for every FA award dollar to be paid by the CDFI Fund. If awarded, Applicants that do not demonstrate 100 percent In-Hand matching funds at the time of Application may experience a longer payment timeline.
Determination of award form	FA awards will be made in comparable form and value to the eligible In-Hand and/or Committed matching funds documentation submitted by the Applicant. • For example, if an FA Applicant provides documentation of eligible loan matching funds for $200,000 and eligible grant matching funds of $400,000, the CDFI Fund will obligate $200,000 of the FA award as a loan and $400,000 as a grant. • After awards have been announced, Recipients may request the CDFI Fund's permission to change the form of their award from loan to grant (by producing eligible grant matching funds), but will only be eligible to receive a grant equal to the federal credit subsidy amount associated with the original loan. Applicants will also experience delays in payments if requested form of award changes are approved by the CDFI Fund.
Matching Funds Window definition	• The Applicant must receive eligible In-Hand matching funds between January 1, 2016 and January 15, 2019. • A Recipient must provide the CDFI Fund with all documentation demonstrating the receipt of In-Hand matching funds by January 31, 2019.
Matching funds and form of award	• Recipients will be approved for a maximum award size of two times the total amount of eligible In-Hand and/or Committed matching funds included in the Application, so long as they do not exceed the maximum award amount. • The form of the matching funds documented in the Application determines the form of the award.
Committed matching funds definition.	• Matching funds are Committed when the Applicant has entered into or received a legally binding commitment from the matching funds source showing the matching funds will be disbursed to the Applicant at a future date. • The Applicant must be able to provide the CDFI Fund, upon request, acceptable written documentation showing the source, form, and amount of the Committed matching funds (including, in the case of a loan, the terms thereof), as well as the anticipated payment date of the Committed funds. • The Applicant must provide information on their Committed matching funds in the Matching Funds Breakout Table Excel Workbook (refer to Table 10—Required Application Documents) which must be submitted at the time of Application. • Although the Applicant is not required to provide further documentation for Committed matching funds at the time of Application submission, other than for Retained Earnings, they must be able to provide documentation to the CDFI Fund upon request.
Limitations on matching funds	• Matching funds must be from non-Federal sources. • Applicants cannot proffer matching funds that were accepted as matching funds for a prior FA award under the NACA Program, NACA Program, or under another Federal grant or award program. • Matching funds must comply with Regulations at 12 CFR 1805.500 *et seq*. • Matching funds must be attributable to at least one of the five eligible FA activities (see Section II.C).
Rights of the CDFI Fund	• The CDFI Fund reserves the right to contact the matching funds source to discuss the matching funds and the documentation that the Applicant provided if required or requested. • The CDFI Fund may grant an extension of the Matching Funds Window (defined in Table 9), on a case-by-case basis, if the CDFI Fund deems it appropriate. • The CDFI Fund reserves the right to rescind all or a portion of an FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if a Recipient fails to provide evidence of In-Hand Matching Funds totaling its award amount obtained during the Matching Funds Window.
Matching funds in the form of third-party in-kind contributions.	• Third party in-kind contributions are non-cash contributions (*i.e.*, property or services) provided by non-Federal third parties to the Applicant. • Third party in-kind contributions will be considered to be in the form of a grant for matching funds purposes. • Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property, and the value of goods and services directly benefiting the eligible activities. • For third party in-kind contributions, the fair market value of goods and services must be documented as the grant match. • Applicants will be responsible for documenting the value of all in-kind contributions as described in the Uniform Requirements.
Matching funds in the form of a loan.	• An FA award made in the form of a loan will have the following standardized terms: i. A 13-year term with semi-annual interest-only payments due in years 1 through 10, and fully amortizing payments due each year in years 11 through 13; and ii. A fixed interest rate of 2.24 percent, which was calculated by the CDFI Fund based on the U.S. Department of the Treasury's 10-year Treasury note. • The Applicant's matching funds loan(s) must:

TABLE 9—MATCHING FUNDS REQUIREMENTS—Continued

	i. Have a minimum of a 3-year term (loans presented as matching funds with less than a 3-year term will not qualify as eligible match); and ii. be from a non-Federal source.
Severe Constraints Waiver	• In the case of an Applicant demonstrating severe constraints on available sources of matching funds, the CDFI Fund, in its sole discretion, may permit such Applicant to comply with the matching funds requirements by reducing such requirements by up to 50 percent. • In order to be considered eligible for a Severe Constraints Waiver, an Applicant must meet all of the NACA FA eligibility criteria described in Table 8. Instructions for requesting a Severe Constraints Waiver will be made available if required. • No more than 25 percent of the total funds available for obligation under this funding round may be matched under the Severe Constraints Waiver.
Ineligible matching funds	• If the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible, the CDFI Fund will permit the Applicant to offer documentation of alternative matching funds as a substitute for the ineligible matching funds. • In such instances: i. The Applicant must provide acceptable evidence of the alternative matching funds within the period of time specified by the CDFI Fund, and ii. the alternative matching funds will not increase the total amount of FA requested.
Use of matching funds from a prior CDFI Program Recipient.	If an Applicant offers matching funds documentation from an organization that was a prior Recipient under the CDFI Program or NACA Program, the Applicant must be able to prove to the CDFI Fund's satisfaction that such funds do not consist, in whole or in part, of CDFI Program funds, NACA Program funds, or other Federal funds.
Matching funds in the form of retained earnings.	• Retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. any combination of (i) and (ii) above that does not include matching funds used for an award. • Retained earnings will be matched with an FA award in the form of a grant. • Depository Institution Holding Company Applicants must provide call reports for the Depository Institution Holding Company in order to verify their retained earnings, even if the requested FA award will support its subsidiary bank.
Special rule for Insured Credit Unions and Insured Depository Institutions.	• An Insured Credit Union's and Insured Depository Institution's retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations. • If option (iii) is used for Insured Credit Unions, the Applicant must increase its member and/or non-member shares and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. • This increase will be measured on a quarterly basis from March 31, 2018; must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and will be based on amounts reported in the Applicant's National Credit Union Administration (NCUA) form 5300 Call Report. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant NCUA form 5300 Call Reports that it has increased shares and/or total loans outstanding by at least 25 percent of the requested FA award amount between December 31, 2016, and December 31, 2017. • The matching funds are not In-Hand until the Recipient has increased its member and/or non-member shares, deposits and/or total loans outstanding by the amount of retained earnings since inception used as matching funds within the time period specified. • If option (iii) is used for Insured Depository Institutions or Depository Institution Holding Companies, the Applicant or its Subsidiary Insured Depository Institution (in the case of a Depository Institution Holding Company) must increase deposits and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. Depository Institution Holding Company Applicants must use the call reports of the CDFI Subsidiary Insured Depository Institution that the requested FA award will support. • This increase will be measured on a quarterly basis from March 31, 2018; must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and will be based on amounts reported in the Bank Call Report. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant call reports that it has increased deposits and/or total loans outstanding by at least 25 percent of the requested FA award amount between December 31, 2016, and December 31, 2017.

TABLE 9—MATCHING FUNDS REQUIREMENTS—Continued

	• The matching funds are not In-Hand until the Recipient has increased its deposits and/or total loans outstanding by the amount of retained earnings since inception used as matching funds within the time period specified. • All regulated Applicants utilizing the part (iii) Since Inception rule should refer to the Retained Earnings Guidance included in the Matching Funds Breakout Table Excel Workbook found on the CDFI Fund's website.

IV. Application and Submission Information

A. *Address To Request an Application Package:* Application materials can be found on the CDFI Fund's website at *www.cdfifund.gov/native.* Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at *cdfihelp@cdfi.treas.gov.*

B. *Content and Form of Application Submission:* All Applications must be prepared using the English language, and calculations must be made in U.S. dollars. The following table lists the required Application documents for the FY 2018 Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Information submitted must accurately reflect the Applicant's activities. Financial data, portfolio, and activity information provided in the Application should only include the Applicant's activities.

TABLE 10—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF–424	All Applicants	Fillable PDF in *Grants.gov*.
NACA Program Application Components: • Funding Application Detail. • Data, Charts, and Narrative sections as listed in AMIS and outlined in Application materials.	All Applicants	AMIS.
DF–FA Application Components: • Requested Disability Funds—Financial Assistance Amount Narratives *. * *DF–FA Narrative will be provided after FA Application submission if DF–FA funding request is specified in AMIS.*	DF–FA Applicants —Must submit narrative document to FA Application in AMIS.	AMIS.
HFFI–FA Application Components: • Funding Application Detail • Narratives.	HFFI–FA Applicants —Must create new funding application.	AMIS.
ATTACHMENTS TO THE APPLICATION: Add to "Related Attachments" related list in application		
Key Staff Resumes	All Applicants	PDF or Word document in AMIS.
Organizational Chart	All Applicants	PDF in AMIS.
Audited Financial Statements For the Applicant's Three Most Recent Historic Fiscal Years.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Management Letters for the Applicant's Most Recent Historic Fiscal Year.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions, TA Applicants: If available.	PDF in AMIS.

TABLE 10—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual Audited Financial Statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the Audit itself.		
Statement(s) in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year Issued from Board Treasurer or other Board member using template provided in application materials. (required only if Management Letters are not available for Audited Financial Statements).	FA Applicants: Loan funds and other non-Insured Depository Institutions, TA Applicants: If available.	PDF in AMIS.
Unaudited Financial Statements for Applicant's Three Most Recent Historic Years (if Audited Financial Statements are not available).	TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2017 Unaudited Financial Statements.	FA and TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Community Partnership Agreement	FA Applicants, if applicable	PDF or Word document in AMIS.
Matching Funds Breakout Table Excel Workbook	CDFI Program FA Core Applicants (the CDFI Fund reserves the right to request matching funds from HFFI–FA and NACA FA applicants if matching funds are not waived in the final FY 2018 NACA Program appropriation).	Excel in AMIS.
Call Reports for each fiscal year reported in the Retained Earnings Calculator.	CDFI Program FA Core Applicants: Insured Depository Institutions that are using Retained Earnings as matching funds only (the CDFI Fund reserves the right to request this information from HFFI–FA and NACA FA applicants if matching funds are not waived in the final FY 2018 NACA Program appropriation).	PDF in AMIS.
Equity Investment Matching Funds Documentation	CDFI Program FA Core Applicants: For-profit CDFIs that are using an Equity Investment(s) as matching funds only (the CDFI Fund reserves the right to request this information from HFFI–FA and NACA FA applicants if matching funds are not waived in the final FY 2018 NACA Program appropriation).	PDF or Word document in AMIS.

C. *Application Submission:* The CDFI Fund has a two-step process that requires the submission of application documents on separate deadlines and locations. The SF–424 must be submitted through *Grants.gov* and all other application documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved by the CDFI Fund. Applicants are only required to submit the OMB SF–424, Application for Federal Assistance form in *Grants.gov*. All other application information (listed in Table 10) will be submitted through AMIS. The deadline for submitting the SF–424 is listed in Tables 1 and 11.

All Applicants must register in the *Grants.gov* system to successfully submit the SF–424. The *Grants.gov* registration process can take 30 days or longer to complete and the CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible (refer to the following link: *http://www.grants.gov/web/grants/register.html*). Since the *Grants.gov* registration process requires Applicants to have DUNS and EIN numbers, Applicants without these required numbers should allow for additional time to complete the *Grants.gov* registration process. The CDFI Fund will not extend the application deadline to any Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system. Each Application

must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization cannot be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the application, the application will be deemed ineligible.

D. *Dun & Bradstreet Universal Numbering System (DUNS):* Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

E. *System for Award Management (SAM):* Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. The SAM registration process can take two weeks or longer to complete. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit *https://www.sam.gov.*

TABLE 11—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number	Dun & Bradstreet	One (1) Week.*
Obtain an EIN Number	Internal Revenue Service (IRS)	Two (2) Weeks.*
Register in *SAM.gov*	System for Award Management (*SAM.gov*)	Two (2) Weeks.*
Register in *Grants.gov*	*Grants.gov*	One (1) Week.**

* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS or EIN number, and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov*.

F. *Submission Dates and Times:*

1. *Submission Deadlines:* The following table provides the critical deadlines for the FY 2018 Funding Round.

TABLE 12—FY 2018 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	February 28, 2018	11:59 p.m.	Service Request via AMIS.
CDFI certification applications	March 2, 2018	11:59 p.m.	Electronically via AMIS
Create AMIS Account (New Applicants)	March 2, 2018		AMIS.
SF424 (Application for Federal Assistance)	March 2, 2018	11:59 p.m.	Electronically via *Grants.gov*.
Last day to contact NACA Program staff	April 2, 2018	5:00 p.m.	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421.
NACA Program Application for FA *or* TA	April 4, 2018	11:59 p.m.	Electronically via AMIS.

2. *Confirmation of Application Submission in Grants.gov and AMIS:* Applicants are required to submit the OMB SF–424, Application for Federal Assistance through the *Grants.gov* system, under the NACA Program Funding Opportunity Number. All other required application materials must be submitted through the AMIS website. Application materials submitted through both systems are due by the applicable deadlines. Applicants must submit the SF–424 on an earlier deadline from the other required application materials in AMIS. If the SF–424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any of the material submitted in AMIS, and the Application will be deemed ineligible.

a. *Grants.gov* Submission Information: Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly

encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

b. *AMIS Submission Information:* AMIS is a web-based portal where Applicants will directly enter their application information and add the required attachments listed in Table 10. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages the Applicant to allow sufficient time to confirm the Application content, review the material submitted, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact can submit the Application. If an Authorized Representative or Application Point of Contact does not submit the application, the application will be deemed ineligible. Applicants can only submit one Application. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

3. *Late Submission:* The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late submissions. The CDFI Fund does not consider a delay in any Federal government process to constitute a Federal government administrative or technological error. The CDFI Fund will not consider a late submission of the SF–424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or technological error.

a. *SF–424 Late Submission:* In cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424, the Applicant must submit a written request for acceptance of late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to request for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of ''Late SF–424 Submission Request.''

b. *Application Late Submission:* In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to request for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the NACA Program with a subject line of ''Late Application Submission Request.''

G. *Funding Restrictions:* FA, PPC–FA, DF–FA, HFFI–FA and TA awards are limited by the following:

1. *FA awards:*

a. A Recipient shall use FA funds only for the eligible activities described in Section II.(C)(1) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *PPC–FA awards:*

a. A Recipient shall use PPC–FA funds only for the eligible activities described in Section II.(C)(5) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute PPC–FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. PPC–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay PPC–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *DF–FA awards:*

a. A Recipient shall use DF–FA funds only for the eligible activities described in Section II.(C)(2) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute DF–FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. DF–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay DF–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *HFFI–FA awards:*

a. A Recipient shall use HFFI–FA funds only for the eligible activities described in Section II.(C)(4) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute HFFI–FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. HFFI–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay HFFI–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *TA grants:*

a. A Recipient shall use TA funds only for the eligible activities described in Section II.(C)(3) of this NOFA and its Assistance Agreement.

b. A Sponsoring Entity award Recipient must create, as a legal entity, the Emerging CDFI no later than the end of the first year of the period of performance, whereupon the Sponsoring Entity must request the CDFI Fund to amend the Assistance

Agreement and add the Emerging CDFI as a co-Recipient thereto, with the Sponsoring Entity, thereby transferring any and all remaining balances and/or assets derived from the TA award to the Emerging CDFI.

c. A Recipient may not distribute TA funds to an Affiliate, Subsidiary or any other entity, without the CDFI Fund's prior written consent.

d. TA funds shall only be paid to the Recipient.

e. The CDFI Fund, in its sole discretion, may pay TA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

f. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

V. Application Review Information

A. *Criteria:* If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the FA, DF–FA, PPC–FA, HFFI–FA, and TA Applications according the below process.

1. *Financial Assistance (FA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application using a five step review process illustrated in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process. Applicants applying as a Community Partnership must describe partnership in the Application pursuant to the requirements set forth in Table 8 and will be evaluated in accordance with the review process described below.

a. *Step 1:* Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status per Section III. Eligibility Information of this NOFA.

b. *Step 2:* Financial Analysis and Compliance Evaluation: Step 2 contains two main components: Financial health analysis and compliance risk evaluation. The CDFI Fund will evaluate the financial health and viability of each Application using financial information provided by the Applicant. The CDFI Fund will also evaluate the compliance risk of each Application using information provided in the Application.

For the financial health analysis, each Application will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-four (24) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Financial Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund staff. If the Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant will not advance to Step 3.

For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Application using information provided in the Application. Each Application will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants must receive a Total Compliance Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund Staff. If the Total Compliance Composite Score remains four (4) or five (5) after CDFI Staff review, the Applicant will not advance to Step 3.

c. *Step 3:* Business Plan Review: Applicants that proceed to Step 3 will be evaluated on the soundness of each Applicant's comprehensive business plan. Two external non-CDFI Fund Reviewers will conduct the Step 3 evaluation. Reviewers will evaluate the Application sections listed in Table 13. All Applications will be reviewed in accordance with standard reviewer evaluation materials for the business plan review. Applications will be ranked based on Total Business Plan Scores, in descending order. In order to advance to Step 4, Applicants must receive a Total Business Plan Score that is either (1) equal to receiving a point score equivalent to a ''Good'' out of a ranking scale in descending order of Excellent, Good, Fair, Limited or Poor, in each section listed in Table 13 or (2) within the top 70 percent of the NACA FA applicant pool, whichever is greater. In the case of tied Total Business Plan Scores that would prevent an Applicant from moving to Step 4, all Applicants with the same score will progress to Step 4.

TABLE 13—STEP 3: FA BUSINESS PLAN REVIEW SCORING CRITERIA

FA application sections	Possible score	Score needed to advance
Executive Summary	Not Scored	N/A.
Business Strategy	12	N/A.
Market and Competitive Analysis	7	N/A.
Products and Services	12	N/A.
Management and Track Record	12	N/A.
Growth and Projections	7	N/A.
Total Business Plan Score	50	NACA FA Applicants: Within Top 70 percent of all NACA Applicant Step 3 Scores.

d. *Step 4:* Policy Objective Review: The CDFI Fund internal reviewers will evaluate each Application to determine its ability to meet policy objectives of the CDFI Fund authorizing statute. The policy objectives considered in this evaluation are listed in Table 14 below. The CDFI Fund also conducts a due diligence review for Applications that includes an analysis of programmatic risk factors including, but not limited to: History of performance in managing Federal awards (including timeliness of reporting and compliance); reports and findings from audits; and the Applicant's ability to effectively implement Federal requirements, which could impact the Total Policy Objective

Review Score. Each Applicant will be evaluated in each of the categories, which will result in a Total Policy Objective Review Composite Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total Policy Objective Review Scores.

TABLE 14—STEP 4: FA POLICY REVIEW SCORING CRITERIA

Section	Possible scores	High score	Score needed to advance
Economic Distress	1, 2, 3, 4, or 5	1	N/A.
Economic Opportunities	1, 2, 3, 4, or 5	1	N/A.
Partnerships	1, 2, 3, 4, or 5	1	N/A.
Total Policy Objective Review Composite Score	1, 2, 3, 4, or 5	1	All Scores Advance.

e. *Step 5:* Award Amount Determination: The CDFI Fund determines an award amount for each Application based on the Step 4 Total Policy Objective Review Score, the Applicant's request amount, and on certain variables, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

2. *Healthy Food Financing Initiative-FA (HFFI–FA) Application Scoring, Award Selection, Review, and Selection Process:* Two external non-CDFI Fund reviewers will evaluate each HFFI–FA Application associated with a FA application that progresses to Step 4 of the FA Application review process. Reviewers will evaluate the Application sections listed in Table 15 and assign a Total HFFI–FA Score up to 25 points. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applications will be ranked based on total scores, in descending order. Applicants that fail to receive an FA award will not be considered for a HFFI–FA award.

The CDFI Fund conducts additional levels of due diligence for Applications that are in scoring contention for an HFFI–FA award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, quality of management systems and ability to meet award management standards, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively implement Federal requirements. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund may reduce awards sizes from requested amounts based on certain variables, including an Applicant's loan disbursement activity, total portfolio outstanding, and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

TABLE 15—STEP 3 HFFI–FA APPLICATION SCORING CRITERIA

HFFI–FA narrative sections	HFFI–FA Applicants (points)
HFFI Target Market Profile	4
Healthy Food Financial Products	5
Healthy Food Development Services	2
Projected HFFI–FA Activities	7
HFFI Track Record, Management Capacity for Providing Healthy Food Financing, Healthy Food Financing Outcomes	7
Total HFFI–FA Score	25

3. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Application Scoring, Award Selection, Review, and Selection Process:* Application requests for PPC–FA awards are not scored. A CDFI Fund internal reviewer will evaluate the PPC–FA request of each associated FA Applicant that has advanced to the Step 4 review process. PPC–FA award amounts will be determined based on the total number of eligible Applicants and funding availability, the Applicant's requested amount, and on certain variables, including but not limited to, an Applicant's deployment track record, historical track record of deployment in Persistent Poverty Counties for Applicants that have received prior awards from the CDFI Fund, minimum award size, and funding availability.

4. *Disability Funds-Financial Assistance (DF–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each DF–FA Application associated with a FA application progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application and assign a Total DF–FA Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total DF–FA Score. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive an FA award will not be considered for a DF–FA award. Award amounts will be determined on the basis of the Total DF–FA Score, the Applicant's requested amount, and on certain variables, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. The CDFI Fund will make awards to the highest scoring applicants first. Award amounts may be reduced from the requested award amount as a result of this analysis. The DF–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or size.

TABLE 16—STEP 3 DF–FA APPLICATION SCORING CRITERIA

Section	Possible scores	High score
DF–FA Narrative Questions	1, 2, 3, 4, or 5	1
Total DF–FA Score	1, 2, 3, 4, or 5	1

5. *Technical Assistance (TA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application to determine its eligibility pursuant to Section III. Eligibility Information of this NOFA. If the Application meets the eligibility criteria, the CDFI Fund will evaluate each TA Application using standard scoring criteria in the Business Plan Review (Table 17). An Applicant must receive a minimum Total TA Business Plan Score of 50 points for the TA components in order to be considered for an award. Sponsoring Entity, Emerging CDFI or Certifiable CDFI Applicants must achieve a minimum score of 35 points in Section I to be considered for an award and to be reviewed in Section II.

An Applicant that is a Certified CDFI will be evaluated on the demonstrated need for TA funding to build the CDFI's capacity, further the Applicant's strategic goals, and achieve impact within the Applicant's Target Market. An Applicant that is an Emerging CDFI or Certifiable CDFI will be evaluated on the Applicant's demonstrated capability and plan to achieve CDFI certification within three years, or if a prior awardee, the certification performance goal and measure stated in its prior Assistance Agreement. An Applicant that is an Emerging CDFI and Certifiable CDFI will also be evaluated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals. An Applicant that is a Sponsoring Entity will be rated on the Applicant's demonstrated capability to create a separate legal entity within one year that will achieve CDFI certification within four years. An Applicant that is a Sponsoring Entity will also be rated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals.

The CDFI Fund will score each part of the TA Business Plan Review as indicated in Table 17.

TABLE 17—TA BUSINESS PLAN REVIEW SCORING CRITERIA

TA application sections	Emerging CDFI or certifiable CDFI (points)	Certified CDFI (points)
Section I:		
Primary Mission	15	N/A
Financing Entity	15	N/A
Target Market	15	N/A
Accountability	15	N/A
Development Services	15	N/A
Section II:		
Organization Overview	5	20
Management and Staff	5	20
Community Coordination	5	20
Financial Performance	5	20
Organizational Impact	5	20
Total TA Business Plan Score	100	100

Each TA Application will be evaluated by one internal CDFI Fund reviewer. Internal reviewers must complete the CDFI Fund's conflict of interest process. The CDFI Fund's application conflict of interest policy is located on the CDFI Fund's website. All Applications will be reviewed in accordance with CDFI Fund standard reviewer evaluation materials for the Business Plan Review. Applications will be ranked based on Total TA Business Plan Score, in descending order. In the case of tied scores that would prohibit the Application from progressing to the next level of review, Certified Applicants will be ranked first according to each Organization Overview score and Emerging CDFI, Certifiable CDFI, and Sponsoring Entity Applicants will be ranked first according to the total Section I score.

The CDFI Fund conducts additional levels of due diligence for Applications that are in scoring contention for an award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively implement Federal requirements. The CDFI Fund will also evaluate the Applicant's ability to meet certification criteria of being a legal entity and a non-government entity. Award amounts may be reduced as a result of this analysis in addition to consideration of the eligibility of an Applicant's funding request and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

6. *Insured Depository Institutions:* The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Subsidiary CDFI Certified Insured Depository Institution that will expend and carry out the

award. If the Appropriate Federal or State Agency identifies safety and soundness concerns, the CDFI Fund will assess whether the concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

7. *Non-Regulated Institutions:* In accordance with the NACA Program's authorizing statute and regulations, the CDFI Fund must ensure, to the maximum extent practicable, that recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. *Anticipated Award Announcement:* The CDFI Fund anticipates making the NACA Program award announcements after September 10, 2018 and before September 30, 2018.

C. *Application Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects an Applicant's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's award decisions are final, and there is no right to appeal the decisions.

D. *External Non-CDFI Fund Reviewers:* All external non-CDFI Fund reviewers are selected based on criteria that includes a professional background in community and economic development finance, and experience reviewing the financial statements of all CDFI institution types. Reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund. The CDFI Fund's application reader conflict of interest policy is located on the CDFI Fund's website.

VI. Federal Award Administration Information

A. *Award Notification:* Each successful Applicant will receive an email ''notice of award'' notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. *Assistance Agreement:* Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award's terms and conditions, including but not be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) performance goals and measures; and (vi) reporting requirements. FA Assistance Agreements have three-year periods of performance. TA Assistance Agreements have two-year periods of performance for Certified CDFIs, three-year periods of performance for Emerging CDFIs or Certifiable CDFIs, and four-year periods of performance for Sponsoring Entity TA Recipients. Upon creation of the Emerging CDFI, the Sponsoring Entity will request the CDFI Fund to amend the Assistance Agreement and add the Emerging CDFI as a party thereto; the Emerging CDFI, as co-awardee, must comply with all of the requirements in the Assistance Agreement, including all program goals and measures.

1. *Certificate of Good Standing:* All FA and TA Recipients that are not Insured Depository Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing no later than 60 days after they submit their Applications.

2. *Closing:* Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and an initial payment of FA or TA may be made. FA Recipients that are subject to the matching funds requirement will not receive a payment until 100 percent of their matching funds are In-Hand. The first payment is the estimated amount of award that the Recipient states in its Application that it will use for eligible FA or TA activities in the first 12 months after the award. The CDFI Fund reserves the right to increase the first payment amount on any award to ensure that any subsequent payments are greater than $25,000 for FA and $5,000 for TA awards.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment in accordance with the Uniform Requirements. The advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award payments. Any documentation in addition to the Assistant Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. *Requirements Prior to Entering into an Assistance Agreement:* If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects the Recipient's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed the Uniform Requirements; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the authorized representative of the Recipient, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements	• If a Recipient received a prior award under any CDFI Fund program and is not current with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until reporting requirements are met. • If such a Recipient is unable to meet the requirement within the timeframe specified, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA. • The automated systems the CDFI Fund uses only acknowledge a report's receipt and it not a determination of meeting reporting requirements.
Failure to maintain CDFI Certification ..	• An FA Recipient must be a Certified CDFI prior to entering into an Assistance Agreement. • If an FA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Pending resolution of noncompliance ..	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination. • If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Noncompliance status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant with any previously executed CDFI award agreement(s) and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the default by taking actions the CDFI Fund has specified within the specified timeframe. If the Recipient is unable to meet the cure requirement within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Compliance with Federal civil rights requirements.	• If prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.§ 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Age Discrimination Act of 1975, (42 U.S.C. §§ 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Do Not Pay	• The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. • The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient is identified as an ineligible recipient in the Do Not Pay database.
Safety and soundness	• If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve safety and soundness conditions prior to entering into an Assistance Agreement.

C. *Reporting*

1. *Reporting requirements:* On an annual basis for the period of performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual Report with the following components:

TABLE 19—ANNUAL REPORTING REQUIREMENTS

Financial Statement Audit Report (Non-profit Recipient).	A Non-profit Recipient must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit Report (For-Profit Recipient).	For-profit Recipients must submit a Financial Statement Audit report in AMIS, along with a statement of financial condition audited or reviewed by an independent certified public accountant.
Single Audit Report (if applicable) (or similar report).	If a Recipient is required to complete a Single Audit Report, it should be submitted to the Federal Audit Clearinghouse (see 2 C.F.R. Subpart F-Audit Requirements in the Uniform Requirements) and AMIS (optional). For-profit Recipients are required to complete and submit a similar report directly to the CDFI Fund.
Institution Level Report (ILR)	The ILR is a report used to collect compliance and performance data from CDFI Fund Recipients. The ILR is submitted through AMIS and captures organizational information, financial position, lending and investing activities, community development outputs, and development services. • A CDFI Subsidiary Insured Depository Institution that receives a transfer of any portion of an FA award from a CDFI Depository Institution Holding Company Recipient must also submit an ILR.
Transaction Level Report (TLR)	The TLR is a report used to collect compliance and performance data from CDFI Fund Recipients. The TLR is submitted through AMIS and captures data on each individual loan and investment in the Recipient's portfolio. • A CDFI Subsidiary Insured Depository Institutions that receives a transfer of any portion of an FA award from a CDFI Depository Institution Holding Company Recipient must also submit a TLR. • The TLR is not required for TA Recipients.

TABLE 19—ANNUAL REPORTING REQUIREMENTS—Continued

Federal Financial Report/OMB Standard Form 425.	If the Recipient receives a TA award, it must submit the Federal Financial Report/ *OMB Standard Form 425* via AMIS.
Uses of Award Report	If the Recipient receives an FA or TA award, it must submit the Uses of Award Report via AMIS.
Shareholders Report	If the Assistance is in the form of an Equity Investment, the Recipient must submit shareholder information to the CDFI Fund showing the class, series, number of shares and valuation of capital stock held or to be held by each shareholder. The Shareholder Report must be submitted for as long as the CDFI Fund is an equity holder.
Performance Progress Report	If the Recipient receives an FA or TA award, it must submit information on the status of compliance with the performance goals and measures via AMIS.

Each Recipient is responsible for the timely and complete submission of the Annual Reporting requirements. Sponsoring Entities with co-awardees will be informed of any reporting shifts at the time the Emerging CDFI is adjoined to the Agreement. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements in the Assistance Agreement and to assess the impact of the NACA Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. *Financial Management and Accounting:* The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal award. These systems must be sufficient to permit the preparation of reports required by general and program specific terms and conditions, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the NACA Program award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor compliance; take action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 12. The CDFI Fund strongly recommends applicants submit questions to the CDFI Fund via an AMIS service request to the NACA Program, Certification, Compliance Monitoring and Evaluation, or IT Help Desk. The CDFI Fund will post on its website responses to reoccurring questions received about this Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov*. Table 20 lists CDFI Fund contact information:

TABLE 20—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
NACA Program	Service Request via AMIS	202–653–0421, option 1	*cdfihelp@cdfi.treas.gov.*
CCME	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
AMIS—IT Help Desk	Service Request via AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

B. *Information Technology Support:* For IT Assistance, submit an AMIS Service Request (Record Type of ''General Inquiry''). In the Service Request form, select the appropriate program, then select ''AMIS Technical Problem'' as the Type. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653–0422 for assistance (this is not a toll free number).

C. *Communication with the CDFI Fund:* The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative) listed in this NOFA's application materials, email addresses, fax and phone numbers, and office locations.

D. *Civil Rights and Diversity:* Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

VIII. Other Information

A. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not

need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Program, and NACA Program Application has been assigned the following control number: 1559–0021. The DF–FA questions have been assigned the following control number: 1559–New.

B. *Application Information Sessions:* The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at *http://www.cdfifund.gov*.

Authority: 2 U.S.C. 4701, *et seq.*; 12 CFR parts 1805 and 1815; 2 CFR part 200.

Mary Ann Donovan,

Director, Community Development Financial Institutions Fund .

[FR Doc. 2018–01998 Filed 1–31–18; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for Financial Assistance (FA) awards or Technical Assistance (TA) grants under the Community Development Financial Institutions Program (CDFI Program) fiscal year (FY) 2018 Funding Round.

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2018–FATA.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.020.

Dates:

TABLE 1—FY 2018 CDFI PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	February 28, 2018	11:59 p.m.	Service Request via Award Management Information System (AMIS).
CDFI certification applications	March 2, 2018	11:59 p.m.	Electronically via AMIS.
Create AMIS Account (New Applicants)	March 2, 2018	11:59 p.m.	AMIS.
SF424 (Application for Federal Assistance)	March 2, 2018	11:59 p.m.	Electronically via *Grants.gov*.
Last day to contact CDFI Program staff	April 2, 2018	5:00 p.m.	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421.
CDFI Program Application for Financial Assistance (FA) *or* Technical Assistance (TA).	April 4, 2018	11:59 p.m.	AMIS.

Executive Summary: Through the CDFI Program, the CDFI Fund provides (i) FA awards of up to $1 million to Certified Community Development Financial Institutions (CDFIs) to build their financial capacity to lend to their Target Markets, and (ii) TA grants of up to $125,000 to build Certified, Certifiable, and Emerging CDFIs' organizational capacity to serve their Target Markets. All awards provided through this NOFA are subject to funding availability.

I. Program Description

A. *History:* The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. Since its creation in 1994, the CDFI Fund has awarded more than $2.5 billion to CDFIs, community development organizations, and financial institutions through the Community Development Financial Institutions Program (CDFI Program), the Native American CDFI Assistance Program (NACA Program), the Bank Enterprise Award Program (BEA Program), the Capital Magnet Fund, and the Financial Education and Counseling Pilot Program. In addition, the CDFI Fund has allocated more than $50.5 billion in tax credit allocation authority through the New Markets Tax Credit Program (NMTC Program) and has guaranteed $1.36 billion in bonds for Eligible CDFIs through the CDFI Bond Guarantee Program.

B. *Priorities:* Through the CDFI Program's FA awards and TA grants, the CDFI Fund invests in and builds the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve rural and urban low-income people, and communities across the nation that lack adequate access to affordable financial products and services.

C. *Authorizing Statutes and Regulations:* The CDFI Program is authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103–325, 12 U.S.C. 4701 *et seq.*). The regulations governing the CDFI Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and set forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the Application; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200; 78 **Federal Register** 78590) (the Uniform Requirements) for a complete understanding of the program. Capitalized terms in this NOFA are defined in the authorizing statute, the Regulations, this NOFA, the Application, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and related materials.

D. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200):* The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award agencies must follow. When evaluating award applications, awarding agencies must evaluate the risks to the program posed by each applicant, and each applicant's merits and eligibility. These requirements are designed to ensure that applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant's financial stability, quality of management systems, the soundness of its business plan, history of performance, ability to achieve measurable impacts through its

products and services, and audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

E. *Funding Limitations:* The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

II. Federal Award Information

A. Funding Availability

1. *FY 2018 Funding Round:* The CDFI Fund expects to award, through this NOFA, approximately $183.5 million as indicated in the following table:

TABLE 2—FY 2018 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories (see definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2018	Estimate average amount awarded in FY 2018	Average amount awarded in FY 2017
		Minimum	Maximum			
FA: Category I/Small and/or Emerging CDFI Assistance (SECA)	$19	$200,000	$700,000	40	$475,000	$478,000
FA: Category II/Core	117.6	500,000	1,000,000	160	735,000	810,000
Persistent Poverty Counties—Financial Assistance (PPC–FA)	18.4	100,000	300,000	100	184,000	210,000
Disability Funds—Financial Assistance (DF–FA)*	2.5	100,000	500,000	10	250,000	N/A
TA	4	10,000	125,000	35	114,000	116,000
Healthy Food Financing Initiative—Financial Assistance (HFFI–FA)*	22	500,000	5,000,000	10	2,200,000	1,700,000
Total	183.5			355		

* DF–FA and HFFI–FA appropriation will be allocated in one competitive round between the NACA and CDFI Program NOFAs.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. *Funding Availability for the FY 2018 Funding Round:* Funds for the FY 2018 Funding Round are subject to change based on passage of a final FY 2018 budget; if Congress does not appropriate funds for the CDFI Program there will not be an FY 2018 Funding Round. If funds are appropriated, the amount of such funds may be greater or less than the amounts set forth above. The CDFI Fund reserves the right to contact applicants to seek additional information in the event that final FY 2018 appropriations for the CDFI Program change any of the requirements of this NOFA. As of the date of this NOFA, the CDFI Fund is operating under a continuing funding resolution as enacted by the Extension of the Continuing Appropriations Act, 2018 (Pub. L. 115–120) and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Pub. L. 115–56).

3. *Anticipated Start Date and Period of Performance:* The CDFI Fund anticipates the period of performance for the FY 2018 Funding Round will begin in late September 2018. Specifically, the period of performance for TA grants begins with the date of the notice of the award and includes either (i) an Emerging or Certifiable CDFI Recipient's three full consecutive fiscal years after the date of the notice of the award or (ii) a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement, during which the Recipient must meet the performance goals set forth in the Assistance Agreement. The period of performance for FA awards begins with the date of the award announcement and includes a Recipient's three full consecutive fiscal years after the date of the notice of the award, during which time the Recipient must meet the performance goals set forth in the Assistance Agreement.

B. *Types of Awards:* Through the CDFI Program, the CDFI Fund provides two types of awards: Financial Assistance (FA) and Technical Assistance (TA) awards. *An Applicant may submit an Application for a TA grant or an FA award, but not both.*

1. *FA Awards:* FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide an FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

2. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Awards:* PPC–FA awards will be provided as a supplement to FA awards; therefore, only those Applicants that are selected to receive an FA award through the CDFI Program FY 2018 Funding Round will be eligible to receive a PPC–FA award. PPC–FA awards can be in the form of loans, grants, Equity Investment, deposits and credit union shares. The form of the PPC–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for PPC–FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a PPC–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

The PPC–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or amount.

3. *Disability Funds—Financial Assistance (DF–FA) Awards:* DF–FA awards will be provided as a supplement to FA awards; therefore, only those Applicants that have been selected to receive an FA award through the CDFI Program FY 2018 Funding

Round will be eligible to receive a DF–FA award. DF–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the DF–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for DF–FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a DF–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application. The DF–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or amount.

4. *Healthy Food Financing Initiative—Financial Assistance (HFFI–FA) Awards:* HFFI–FA awards will be provided as a supplement to FA awards; therefore, only those Applicants that have been selected to receive an FA award through the CDFI Program FY 2018 Funding Round will be eligible to receive an HFFI–FA award. HFFI–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the HFFI–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waives the matching funds requirement. Matching funds are required for HFFI–FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide an HFFI–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application. The HFFI–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or amount.

5. *TA Grants:* TA is provided in the form of grants. The CDFI Fund reserves the right, in its sole discretion, to provide a TA grant in an amount other than which the Applicant requests; however, the TA grant amount will not exceed the Applicant's request as stated in its Application.

C. Eligible Activities:

1. *FA Awards:* FA, PPC–FA, DF–FA, and HFFI–FA award funds can be expended for activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. FA Recipients must meet Performance Goals, which will be derived from projections and attestations provided by the Applicant in its application, to achieve one or more of the following FA Objectives: (i) Increase Volume of Financial Products or Financial Services in an Eligible Market(s) or in the Applicant's approved Target Market; (ii) Serve New Geographic Area or Areas; (iii) Provide New Financial Products in an Eligible Market(s) or in the Applicant's approved Target Market, New Financial Services in an Eligible Market(s) or in the Applicant's approved Target Market, or New Development Services in an Eligible Market(s) or in the Applicant's approved Target Market; and (iv) Serve New Targeted Population or Populations. FA awards can only be used for Direct Costs associated with an eligible activity; no indirect expenses are allowed. Up to 15 percent of the FA award can be used for Direct Administrative Expenses associated with an eligible FA activity. ''Direct Administrative Expenses'' shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Requirements, which are incurred by the Recipient to carry out the Financial Assistance. Direct Costs incurred to provide Development Services or Financial Services do not constitute Direct Administrative Expenses.

The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the five eligible activity categories are defined as follows:

TABLE 3—FA, PPC–FA, DF–FA, AND HFFI–FA ELIGIBLE ACTIVITY CATEGORIES

FA eligible activity	FA Eligible activity definition—All FA Eligible activities must be in an eligible market or the applicant's approved target market	Eligible CDFI institution types
i. Financial Products	FA expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees; in the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs. For HFFI–FA, however, the purchase of loans originated by certified CDFIs is not an Eligible Activity.	All.
ii. Financial Services	FA expended for providing checking, savings accounts, check cashing, money orders, certified checks, deposit taking, safe deposit box services, and other similar services.	Insured Depository Institutions and Depository Institution Holding Company only. Not applicable for HFFI–FA Recipients.
iii. Loan Loss Reserves	FA set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.
iv. Development Services	FA expended for activities undertaken by a CDFI, its Affiliate or contractor that promote community development and shall prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include, financial or credit counseling; homeownership counseling; and business planning and management assistance.	All.

TABLE 3—FA, PPC–FA, DF–FA, AND HFFI–FA ELIGIBLE ACTIVITY CATEGORIES—Continued

FA eligible activity	FA Eligible activity definition—All FA Eligible activities must be in an eligible market or the applicant's approved target market	Eligible CDFI institution types
v. Capital Reserves	FA set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Insured Depository Institutions and Depository Institution Holding Company only. Not applicable for DF–FA.

Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income or are African American, Hispanic or American Indian, Native Hawaiians residing in Hawaii, Native Alaskans residing in Alaska, and Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

2. *DF–FA Award:* DF–FA award funds can only be expended for eligible FA activities referenced in Table 3 to directly or indirectly benefit individuals with disabilities. The DF–FA Recipient must close Financial Products for the primary purpose of directly or indirectly benefiting people with disabilities in an amount equal to or greater than 85 percent of the total DF–FA provided. Such financing activities have a primary purpose of directly or indirectly benefiting individuals with disabilities where the majority of the DF–FA supported loans or investments benefit individuals with disabilities. Eligible DF–FA financing activities may include, among other activities, loans to develop or purchase affordable, accessible, and safe housing; loans to provide or facilitate employment opportunities; and loans to purchase assistive technology.

For the purposes of DF- FA, a person with a Disability is: A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment, as defined by the American Disabilities Act (ADA) at *https://www.ada.gov/cguide.htm.*

3. *TA Grants:* TA grant funds can be expended for the following seven eligible activity categories: (i) Compensation—personnel services; (ii) Compensation—fringe benefits; (iii) Professional Service Costs; (iv) Travel Costs; (v) Training and Education Costs; (vi) Equipment and other capital expenditures; and (vii) Supplies. Each of the eligible activity categories will not be authorized for indirect costs or an associated indirect cost rate. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the seven eligible activity categories are defined as follows:

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES AS SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation—personnel services.	TA paid to cover salaries of the Applicant's personnel that are paid currently or accrued by the Applicant for work performed directly related to carrying out the purpose of the TA grant (including activities related to becoming certified as a CDFI). Any work performed directly but unrelated to the purposes of the TA grant cannot be paid as Compensation through a TA grant. For example, the salaries for building maintenance would not carry out the purpose of a TA grant and would be deemed unallowable.
(ii) Compensation—fringe benefits	TA paid to cover costs of the Applicant's personnel employment (other than the employees' salaries). The costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity and consistently applied organizational policies.
(iii) Professional service costs	TA used to pay for professional and consultant services (e.g. such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (e.g. credit analysis, portfolio management), and who are not officers or employees of the Recipient. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. Professional and consultant services must build the capacity of the CDFI. For example, professional services that provide direct development services to the customers does not build the capacity of the CDFI to provide those services and would not be eligible.
(iv) Travel costs	TA used to pay expenses for transportation, lodging, subsistence, and related items incurred by the Applicant's personnel (does not include consultants or board members) who are on travel status on business related to the TA grant. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(v) Training and education costs	TA used to pay the cost of training and education provided for employee development. TA can only be used to pay for training costs incurred by the Applicant's personnel (does not include consultants or board members).
(vi) Equipment	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vii) Supplies	TA used to pay for tangible personal property with a per unit acquisition cost of less than $5,000. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES AS SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS—Continued

(viii) Unallowable Costs	The following costs are unallowable and cannot be paid for with a TA grant (but not limited to per the UAR): • Selling or marketing products or services of the non-federal entity that are not directly related to building the capacity of the CDFI • Advertising media, including printing of materials, the cost of displays, demonstrations, and exhibits that are not directly related to building the capacity of the CDFI • Promotional items and memorabilia • Advertising and public relations designed solely to promote the non-Federal entity that are not directly related to building the capacity of the CDFI • Facilities acquisition/development costs • Fees, including fees paid to brokers, promoters, organizers, management consultants, attorneys, accountants, or investment counselor • Memberships in country clubs or organizations whose primary purpose is lobbying • Audit costs for audits either: (1) Required under the Single Audit Act but have not been conducted or have been conducted but not in accordance with the Single Audit Act requirements; or (2) for a non-Federal entity that is exempted from having an audit conducted in the Single Audit act

4. *HFFI–FA Award:* HFFI–FA award funds can only be expended for eligible FA activities referenced in Table 3. The HFFI–FA investments must comply with the following guidelines:

a. Recipient must close Financial Products for Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets in its Target Market in an amount equal to or greater than 100 percent of the total HFFI Financial Assistance provided. Eligible financing activities to Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets require that the majority of the loan or investment be devoted to offering a range of Healthy Food choice, which may include, among other activities, investments supporting an existing retail store or wholesale operation upgrade to offer an expanded range of Healthy Food choices, or supporting a nonprofit organization that expands the availability of Healthy Foods in underserved areas.

b. Recipient must demonstrate that it has closed Financial Products to Healthy Food Retail Outlets located in Food Deserts in the Recipient's Target Market in an amount equal to 75% of the total HFFI Financial Assistance provided.

Definitions

Healthy Foods. Healthy Foods include unprepared nutrient-dense foods and beverages as set forth in the USDA Dietary Guidelines for Americans 2015–2020 including whole fruits and vegetables, whole grains, fat free or low-fat dairy foods, lean meats and poultry (fresh, refrigerated, frozen or canned). Healthy Foods should have low or no added sugars, and be low-sodium, reduced sodium, or no-salt-added. (See USDA Dietary Guidelines: *http://www.choosemyplate.gov/dietary-guidelines.*)

Healthy Food Retail Outlets. Commercial sellers of Healthy Foods including, but not limited to, grocery stores, mobile food retailers, farmers markets, retail cooperatives, corner stores, bodegas, stores that sell other food and non-food items along with a range of Healthy Foods, as those terms are determined and defined by the CDFI Fund in the Assistance Agreement and related compliance materials.

Healthy Food Non-Retail Outlets. Wholesalers of Healthy Foods including, but not limited to, wholesale food outlets, wholesale cooperatives, or other non-retail food producers that supply for sale a range of Healthy Food options; entities that produce or distribute Healthy Foods for eventual retail sale, and entities that provide consumer education regarding the consumption of Healthy Foods, as those terms are determined and defined by the CDFI Fund in the Assistance Agreement and related compliance materials.

Food Deserts. Distressed geographic areas where either a substantial number or share of residents has low access to a supermarket or large grocery store. For the purpose of satisfying this requirement, a Food Desert must either: (1) Be a census tract determined to be a Food Desert by the U.S. Department of Agriculture (USDA), in its USDA Food Access Research Atlas; (2) be a census tract adjacent to a census tract determined to be a Food Desert by the USDA, in its USDA Food Access Research Atlas; which has a median family income less than or equal to 120 percent of the applicable Area Median Family Income; or (3) be a Geographic Unit as defined in 12 CFR part 1805.201(b)(3)(ii)(B), which (i) individually meets at least one of the criteria in 12 CFR part 1805.201(b)(3)(ii)(D), and (ii) has been identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

5. *PPC–FA Award:* PPC–FA award funds can only be expended for eligible FA activities referenced in Table 3. The PPC–FA Recipient must close Financial Products to an Eligible Market or in the Applicant's approved Target Market in a Persistent Poverty Counties (PPC) in an amount equal to or greater than 100 percent of the total PPC Financial Assistance provided. The specific counties that meet the criteria for ''persistent poverty'' can be found at: *https://www.cdfifund.gov/Documents/Persistent%20Poverty%20Counties%20CDFI%20Fund%20July6-2017.xlsx.*

III. Eligibility Information

A. *Eligible Applicants:* For the purposes of this NOFA, the following tables set forth the eligibility criteria to be in contention to receive an award from the CDFI Fund, along with certain definitions of terms. There are four categories of Applicant eligibility criteria: (1) CDFI certification criteria (Table 5); (2) requirements that apply to all Applicants (Table 6); (3) requirements that apply to TA Applicants (Table 7); and (4) requirements that apply to FA Applicants (Table 8).

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS

Certified CDFI	• An entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.
Certifiable CDFI	• An entity that has submitted a CDFI certification application to the CDFI Fund demonstrating that it meets the CDFI certification requirements but which has not yet been officially certified. (See Table 12 for application submission deadlines.) • The CDFI Fund will not enter into an Assistance Agreement or make an FA award payment unless and until an Applicant is a Certified CDFI. • The CDFI Fund will enter into an Assistance Agreement if the Applicant is awarded a TA award regardless of the Applicant's certification status.
Emerging CDFI (TA Applicants)	• A non-Certified entity that has not submitted a CDFI certification application but demonstrates to the CDFI Fund in its Application that it has an acceptable plan to meet CDFI certification requirements by the end of its period of performance, or another date that the CDFI Fund selects. • An Emerging CDFI that has prior award(s) will be held to the CDFI certification performance goal and measure(s) stated in its prior Assistance Agreement(s). • Emerging CDFIs may only apply for TA grants; they are not eligible to apply for FA awards. • Emerging CDFI selected to receive a TA grant will be required to become a Certified CDFI by a date specified in the Assistance Agreement.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant	• Only the entity that will carry out the proposed award activities can apply for an award (*i.e.*, the intended Recipient, other than Depository Institution Holding Companies (see below)). Recipients cannot create a new legal entity to carry out the proposed award activities. • The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services. • An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below).
Application type and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the required application documents listed in Table 10. • The CDFI Fund will only accept Applications that use the official application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants have a two-step process that requires the submission of application documents on two separate deadlines and locations: (1) the SF–424 in *Grants.gov* and (2) all other required application materials in AMIS. • *Grants.gov* and the SF–424: ○ *Grants.gov:* Applicants must submit the Office of Management and Budget (OMB) Standard Form (SF) OMB SF–424, Application for Federal Assistance. ○ All Applicants must register in the *Grants.gov* system to successfully submit an application. The *Grants.gov* registration process can take 30 days or more to complete. The CDFI Fund strongly encourages applicants to register as early as possible. ○ The CDFI Fund will not extend the SF–424 (or AMIS) application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF–424. ○ The SF–424 must be submitted in *Grants.gov* on or before March 2, 2018, the deadline listed in Table 1 and Table 12. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. ○ The deadline for the *Grants.gov* submission is before the AMIS deadline. ○ The SF–424 must be submitted under the CDFI Program Funding Opportunity Number. ○ If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the application will be deemed ineligible. • AMIS and all other required application materials: ○ AMIS is an enterprise-wide information technology system that replaced the myCDFI Fund portal. Applicants will use AMIS to submit and store organization and application information with the CDFI Fund. ○ Applicants are only allowed one CDFI Program Application submission in AMIS. ○ Each Application in AMIS must be signed by an Authorized Representative. ○ Applicants must ensure that the Authorized Representative is authorized to sign legal documents on behalf of the organization; consultants working on behalf of the organization cannot be designated as Authorized Representatives. ○ Only the Authorized Representative or Application Point of Contact, included in the Application, can submit the Application in AMIS. ○ All required application materials must be submitted in AMIS on or before the deadline specified in Tables 1 and 12.
Employer Identification Number (EIN).	• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization.
Dun & Bradstreet, (DUNS) number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov*. • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

System for Award Management (SAM).	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants must have a DUNS number and an EIN number in order to register in SAM. • Applicants must be registered in SAM before they can submit an SF–424 in *Grants.gov*.
AMIS Accounts	• Each Applicant must register as an organization in AMIS and submit all required application materials through the AMIS portal. • The Application of any organization that does not properly register in AMIS by the deadline set forth in Table 1—FY 2018 CDFI Program Funding Round Critical Deadlines for Applicants—will be rejected without further consideration. • The Authorized Representative and/or Application Point of Contact must be included as ''users'' in the Applicant's AMIS account. • An Applicant that fails to properly register and update its AMIS account may miss important communication from the CDFI Fund or not be able to successfully submit an Application.
501 (c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501 (c)(4) organization that engages in lobbying activities is not eligible for the receipt of a CDFI or NACA Program award.
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
Depository Institution Holding Company Applicant.	• In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • Authorized representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Insured CDFI—Insured Credit Union and Insured Depository Institution.	• To be eligible for an award, each Insured Depository Institution Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively), by its Federal regulator of at least ''3''. • Organizations with CAMELS/CAMEL ratings of ''4 or 5'' will not be eligible for awards. • The CDFI Fund will also evaluate materials concerns identified by the Appropriate Federal Banking Agency in determining eligibility of Insured Depository Institution Applicants.
Use of award	• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the FA or TA Eligible Activity Categories (see Section II.C). • Awards cannot be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others without the CDFI Fund's prior written consent (other than Depository Institution Holding Company Applicants). • The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.
Requested award amount	• An Applicant must state its requested award amount in the Application in AMIS. An Application that does not include this amount will not be allowed to submit an Application.
Pending resolution of noncompliance.	• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues of any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.
Noncompliance status	• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a determination that such entity is noncompliant with a previously executed agreement and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a CDFI Program loan within five years of the Application deadline.

TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS

CDFI certification status	(1) Emerging CDFIs (see definitions in Table 5), or (2) Certifiable or Certified CDFIs (see Table 5) that meet the following criteria: (1) Have total assets* as of the end of the Applicant's most recent fiscal year end in the following amounts: • Insured Depository Institutions and Depository Institution Holding Companies: up to $250 million • Insured Credit Unions: up to $10 million • Venture capital funds: up to $10 million • Other CDFIs: up to $5 million OR (2) Have begun operations** on or after January 1, 2014 * ''Total assets'' is defined as the Total Assets as of Fiscal Year End Date stated in the Applicant's AMIS account and verified by internally prepared financial statements and/or audits. ** ''Have begun operations'' is defined as the financing activity start date indicated in the Applicant's AMIS account.

TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS—Continued

Matching funds	• Matching funds documentation is not required for TA awards.
Limitation on Awards	• An Emerging CDFI will be allowed to receive no more than three TA awards as an uncertified CDFI.
Proposed Activities	• Applicants must propose to directly undertake eligible activities with TA awards. For example, an uncertified CDFI Applicant must propose to become certified as part of its application and a Certified CDFI Applicant must propose activities that build its capacity to serve its Target Market or an Eligible Market. • Applicants may not propose to use a TA award to create a separate legal entity to become a certified CDFI or otherwise carryout the TA award activities.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS

CDFI certification status	• Each FA Applicant must be a Certified CDFI prior to the announcement of award decisions. • The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report, if the CDFI Fund has not yet made a final compliance determination.
Matching funds documentation	• All Applicants must submit acceptable documentation attesting that they have received or will receive matching funds. Applicants that do not submit the Matching Funds Excel Workbook documenting the source of their matching funds will not be evaluated. • Awards will be limited to no more than two times the amount of In-Hand or Committed matching funds documentation provided at the time of Application. • Awards will be obligated in like form to the matching funds provided at time of Application. See Table 9. Matching Funds ''Determination of Award Form'' for additional guidance. • Award payments from the CDFI Fund will require eligible dollar-for-dollar In-Hand matching funds for the total payment amount. Recipients will not receive a payment until 100 percent of their matching funds are In-Hand. • The CDFI Fund will reduce and de-obligate the remaining balance of any Award that does not demonstrate full dollar-for-dollar matching funds equal to the announced award amount by the end of the Matching Funds Window.
$5 Million funding cap	• The CDFI Fund is prohibited from obligating more than $5 million in CDFI and NACA Program awards, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period. • For purposes of this NOFA and subject to final FY 2018 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2016, and 2017 funding rounds, as well as the requested FY 2018 award, excluding DF–FA, and HFFI–FA awards. The CDFI Fund will make the FY 2018 funding round award announcements after September 10, 2018.
FA Category I (SECA)	• To be an eligible SECA Applicant, an Applicant must meet the following criteria: (1) Be a Certified or Certifiable CDFI; (2) Request $700,000 or less in FA funds; AND EITHER (3) Have total assets* as of the end of the Applicant's most recent fiscal year end in the following amounts: • Insured Depository Institutions and Depository Institution Holding Companies: up to $250 million • Insured Credit Unions: up to $10 million • Venture capital funds: up to $10 million • Other CDFIs: up to $5 million OR (4) Have begun operations** on or after January 1, 2014 * ''Total assets'' is defined as the Total Assets of Fiscal Year End Date stated in the Applicant's AMIS account and verified by internally prepared financial statements and/or audits. ** ''Have begun operations'' is defined as the financing activity start date indicated in the Applicant's AMIS account.
FA Category II (Core)	• A Core Applicant must be either a Certified or Certifiable CDFI as defined in Table 5. • An Applicant that meets the SECA requirements stated above, and that requests more than $700,000 in award funds is categorized as an FA Category II (Core) Applicant, regardless of its total assets and/or years in operation.
FA Applicants With Community Partners.	• A CDFI Applicant can apply for assistance jointly with a Community Partner. The CDFI Applicant would complete the CDFI Program Application for (FA) and would address the Community Partnership in its business plan and other sections of the Application as specified in the guidance materials. • The CDFI Applicant must be either a Certified or Certifiable CDFI as defined in Table 5. • An Application with a Community Partner must: ○ Describe how the CDFI Applicant and Community Partner will each participate in carrying out the partnership and how the partnership will enhance activities serving the investment area or targeted population. ○ Demonstrate that the Community Partnership activities are consistent with the strategic plan submitted by the CDFI—Applicant. • Assistance provided upon approval of an Application with a Community Partner shall only be entrusted to the CDFI Applicant and shall not be used to fund any activity carried out directly by the Community Partner or an Affiliate or Subsidiary thereof.
PPC–FA	• All PPC–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all FA award eligibility requirements; and ○ Provide a PPC–FA award request amount in AMIS.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS—Continued

DF–FA	• All DF–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all FA award eligibility requirements; ○ Submit the DF–FA Application; and ○ Provide a DF–FA award request amount in AMIS.
HFFI–FA	• All HFFI–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all FA award eligibility requirements; ○ Submit the HFFI–FA Application; and ○ Provide a HFFI–FA award request amount in AMIS.

B. *Matching Funds Requirements:* In order to receive an FA award, an Applicant must provide evidence of eligible dollar-for-dollar matching funds and attest that it can provide acceptable documentation upon the CDFI Fund's request. An Applicant that uses Retained Earnings or Equity Investments must provide documentation of eligible dollar-for-dollar matching funds at the time of application submission. The CDFI Fund will review matching funds information, attestations, and matching funds documentation, if applicable, prior to award payment and will pay funds based upon eligible In-Hand matching funds (see Table 9 for the definition of In-Hand). The CDFI Fund encourages Applicants to review the Regulations at 12 CFR 1805.500, the Uniform Requirements, and the matching funds guidance materials available on the CDFI Fund's website. Table 9 provides a summary of the matching funds requirements; additional details are set forth in the Application materials.

TABLE 9—MATCHING FUNDS REQUIREMENTS

In-Hand matching funds definition	• Matching funds are In-Hand when the Applicant receives payment for the matching funds from the matching funds source and has acceptable documentation that can be provided to the CDFI Fund upon request. Acceptable In-Hand documentation must show the source, form (*e.g.*, grant, loan, deposit, and Equity Investment), amount received, and the date the funds came into physical possession of the Applicant. • The following documentation, depending on the matching funds type, must be available to be provided to the CDFI Fund upon request: • Loan—the loan agreement and/or promissory note; • grant—the grant letter or agreement; • equity investment—the stock certificate, documentation of total equity outstanding, and shareholder agreement; • retained earnings—Retained Earnings Calculator and audited financial statements or call reports from regulating entity for each fiscal year reported in Retained Earnings Calculator; • third party in-kind contribution- evidence of receipt of contribution and valuation; • deposits—certificates of deposit agreement; • secondary capital—secondary capital agreement and disclosure and acknowledgement statement; AND • clearly legible documentation that demonstrates actual receipt of the matching funds including the date of the transaction and the amount, such as a copy of a check or a wire transfer statement. • Applicants must provide information on their In-Hand matching funds in the Matching Funds Breakout Table Excel Workbook (refer to Table 10—Required Application Documents) which must be submitted at the time of Application. • Although Applicants are not required to provide further documentation for In-Hand matching funds at the time of Application submission, other than for Retained Earnings and Equity Investments, they must be able to provide documentation to the CDFI Fund upon request.
Matching funds requirements by application type.	The following Applicants must provide evidence of acceptable matching funds: • Category I/SECA FA Applicants applying for FA, PPC–FA, and DF–FA (upon request);* • Category II/Core FA Applicants applying for FA, PPC–FA, and DF–FA; and • HFFI–FA Applicants (upon request).* TA Applicants are not required to provide matching funds. * The matching funds requirement for HFFI–FA and SECA FA applicants was waived in the appropriations bill for FY 2017, and final FY 2018 appropriations are pending. HFFI–FA and SECA FA applicants are not required to submit matching funds for their award requests at the time of application. However, the CDFI Fund reserves the right to request matching funds from HFFI–FA and SECA FA applicants if matching funds are not waived in the final FY 2018 CDFI Program appropriation.
Amount of required match	Applicants must provide evidence of eligible, In-Hand, dollar-for-dollar, non-Federal matching funds for every FA award dollar to be paid by the CDFI Fund. If awarded, Applicants that do not demonstrate 100 percent In-Hand matching funds at the time of Application may experience a longer payment timeline.
Determination of award form	FA awards will be made in comparable form and value to the eligible In-Hand and/or Committed matching funds documentation submitted by the Applicant. • For example, if an FA Applicant provides documentation of eligible loan matching funds for $200,000 and eligible grant matching funds of $400,000, the CDFI Fund will obligate $200,000 of the FA award as a loan and $400,000 as a grant.

TABLE 9—MATCHING FUNDS REQUIREMENTS—Continued

	• After awards have been announced, Recipients may request the CDFI Fund's permission to change the form of their award from loan to grant (by producing eligible grant matching funds), but will only be eligible to receive a grant equal to the federal credit subsidy amount associated with the original loan. Applicants will also experience delays in payments if requested form of award changes are approved by the CDFI Fund.
Matching Funds Window definition	• The Applicant must receive eligible In-Hand matching funds between January 1, 2016 and January 15, 2019. • A Recipient must provide the CDFI Fund with all documentation demonstrating the receipt of In-Hand matching funds by January 31, 2019.
Matching funds and form of award	• Recipients will be approved for a maximum award size of two times the total amount of eligible In-Hand and/or Committed matching funds included in the Application, so long as they do not exceed the maximum award amount. • The form of the matching funds documented in the Application determines the form of the award.
Committed matching funds definition.	• Matching funds are Committed when the Applicant has entered into or received a legally binding commitment from the matching funds source showing the matching funds will be disbursed to the Applicant at a future date. • The Applicant must be able to provide the CDFI Fund, upon request, acceptable written documentation showing the source, form, and amount of the Committed matching funds (including, in the case of a loan, the terms thereof), as well as the anticipated payment date of the Committed funds. • The Applicant must provide information on their Committed matching funds in the Matching Funds Breakout Table Excel Workbook (refer to Table 10—Required Application Documents) which must be submitted at the time of Application. • Although the Applicant is not required to provide further documentation for Committed matching funds at the time of Application submission, other than for Retained Earnings, it must be able to provide documentation to the CDFI Fund upon request.
Limitations on matching funds	• Matching funds must be from non-Federal sources. • Applicants cannot proffer matching funds that were accepted as matching funds for a prior FA award under the CDFI Program, NACA Program, or under another Federal grant or award program. • Matching funds must comply with Regulations at 12 CFR 1805.500 *et seq.* • Matching funds must be attributable to at least one of the five eligible FA activities (see Section II.C).
Rights of the CDFI Fund	• The CDFI Fund reserves the right to contact the matching funds source to discuss the matching funds and the documentation that the Applicant provided if required or requested. • The CDFI Fund may grant an extension of the Matching Funds Window (defined in Table 9), on a case-by-case basis, if the CDFI Fund deems it appropriate. • The CDFI Fund reserves the right to rescind all or a portion of an FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if a Recipient fails to provide evidence of In-Hand Matching Funds totaling its award amount obtained during the Matching Funds Window.
Matching funds in the form of third-party in-kind contributions.	• Third party in-kind contributions are non-cash contributions (*i.e.*, property or services) provided by non-Federal third parties to the Applicant. • Third party in-kind contributions will be considered to be in the form of a grant for matching funds purposes. • Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property, and the value of goods and services directly benefiting the eligible activities. • For third party in-kind contributions, the fair market value of goods and services must be documented as the grant match. • Applicants will be responsible for documenting the value of all in-kind contributions as described in the Uniform Requirements.
Matching funds in the form of a loan.	• An FA award made in the form of a loan will have the following standardized terms: i. A 13-year term with semi-annual interest-only payments due in years 1 through 10, and fully amortizing payments due each year in years 11 through 13; and ii. A fixed interest rate of 2.24 percent, which was calculated by the CDFI Fund based on the U.S. Department of the Treasury's 10-year Treasury note. • The Applicant's matching funds loan(s) must: i. Have a minimum of a 3-year term (loans presented as matching funds with less than a 3-year term will not qualify as eligible match); and ii. be from a non-Federal source.
Severe Constraints Waiver	• In the case of an Applicant demonstrating severe constraints on available sources of matching funds, the CDFI Fund, in its sole discretion, may permit such Applicant to comply with the matching funds requirements by reducing such requirements by up to 50 percent. • In order to be considered eligible for a Severe Constraints Waiver, an Applicant must meet all of the SECA eligibility criteria described in Table 8. Instructions for requesting a Severe Constraints Waiver will be made available if required. • No more than 25 percent of the total funds available for obligation under this funding round may be matched under the Severe Constraints Waiver.
Ineligible matching funds	• If the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible, the CDFI Fund will permit the Applicant to offer documentation of alternative matching funds as a substitute for the ineligible matching funds. • In such instances: i. The Applicant must provide acceptable evidence of the alternative matching funds within the period of time specified by the CDFI Fund, and ii. the alternative matching funds will not increase the total amount of FA requested.

TABLE 9—MATCHING FUNDS REQUIREMENTS—Continued

Use of matching funds from a prior CDFI Program Recipient.	If an Applicant offers matching funds documentation from an organization that was a prior Recipient under the CDFI Program or NACA Program, the Applicant must be able to prove to the CDFI Fund's satisfaction that such funds do not consist, in whole or in part, of CDFI Program funds, NACA Program funds, or other Federal funds.
Matching funds in the form of retained earnings.	• Retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. any combination of (i) and (ii) above that does not include matching funds used for an award. • Retained earnings will be matched with an FA award in the form of a grant. • Depository Institution Holding Company Applicants must provide call reports for the Depository Institution Holding Company in order to verify their retained earnings, even if the requested FA award will support its subsidiary bank.
Special rule for Insured Credit Unions and Insured Depository Institutions.	• An Insured Credit Union's and Insured Depository Institution's retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations. • If option (iii) is used for Insured Credit Unions, the Applicant must increase its member and/or non-member shares and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. • This increase will be measured on a quarterly basis from March 31, 2018; must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and will be based on amounts reported in the Applicant's National Credit Union Administration (NCUA) form 5300 Call Report. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant NCUA form 5300 Call Reports that it has increased shares and/or total loans outstanding by at least 25 percent of the requested FA award amount between December 31, 2016, and December 31, 2017. • The matching funds are not In-Hand until the Recipient has increased its member and/or non-member shares, deposits and/or total loans outstanding by the amount of retained earnings since inception used as matching funds within the time period specified. • If option (iii) is used for Insured Depository Institutions or Depository Institution Holding Companies, the Applicant or its Subsidiary Insured Depository Institution (in the case of a Depository Institution Holding Company) must increase deposits and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. Depository Institution Holding Company Applicants must use the call reports of the CDFI Subsidiary Insured Depository Institution that the requested FA award will support. • This increase will be measured on a quarterly basis from March 31, 2018; must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and will be based on amounts reported in the Bank Call Report. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant call reports that it has increased deposits and/or total loans outstanding by at least 25 percent of the requested FA award amount between December 31, 2016, and December 31, 2017. • The matching funds are not In-Hand until the Recipient has increased its deposits and/or total loans outstanding by the amount of retained earnings since inception used as matching funds within the time period specified. • All regulated Applicants utilizing the part (iii) Since Inception rule should refer to the Retained Earnings Guidance included in the Matching Funds Breakout Table Excel Workbook found on the CDFI Fund website.

V. Application and Submission Information

A. *Address To Request an Application Package:* Application materials can be found on the CDFI Fund's website at *www.cdfifund.gov/cdfi*. Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at *cdfihelp@cdfi.treas.gov*.

B. *Content and Form of Application Submission:* All Applications must be prepared using the English language, and calculations must be made in U.S. dollars. The following table lists the required Application documents for the FY 2018 Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or

the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Information submitted must accurately reflect the Applicant's activities. Financial data, portfolio, and activity information provided in the Application should only include the Applicant's activities.

TABLE 10—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF–424	All Applicants	Fillable PDF in *Grants.gov*.
CDFI Program Application Components: • Funding Application Detail. • Data, Charts, and Narrative sections as listed in AMIS and outlined in Application materials.	All Applicants	AMIS.
DF–FA Application Components: • Requested Disability Funds—Financial Assistance Amount Narratives *. * *DF–FA Narrative will be provided after FA Application submission if DF–FA funding request is specified in AMIS.*	DF–FA Applicants —Must submit narrative document to FA Application in AMIS.	AMIS.
HFFI–FA Application Components: • Funding Application Detail. • Narratives	HFFI–FA Applicants —Must create new funding application.	AMIS.
ATTACHMENTS TO THE APPLICATION: Add to "Related Attachments" related list in application		
Key Staff Resumes	All Applicants	PDF or Word document in AMIS.
Organizational Chart	All Applicants	PDF in AMIS.
Audited Financial Statements For the Applicant's Three Most Recent Historic Fiscal Years.	FA Applicants: Loan funds, Venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Management Letters for the Applicant's Most Recent Historic Fiscal Year. The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual Audited Financial Statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the Audit itself.	FA Applicants: Loan funds, Venture capital funds, and other non-Insured Depository Institutions. TA Applicants: If available	PDF in AMIS.
Statement(s) in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year Issued from Board Treasurer or other Board member using template provided in application materials (required only if Management Letters are not available for Audited Financial Statements).	FA Applicants: Loan funds and other non-Insured Depository Institutions. TA Applicants: If available	PDF in AMIS.
Unaudited Financial Statements for Applicant's Three Most Recent Historic Years (if Audited Financial Statements are not available).	TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2017 Unaudited Financial Statements.	FA and TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Community Partnership Agreement	FA Applicants, if applicable	PDF or Word document in AMIS.
Matching Funds Breakout Table Excel Workbook	FA Core Applicants	Excel in AMIS.
Call Reports for each fiscal year reported in the Retained Earnings Calculator.	FA Core Applicants: Insured Depository Institutions that are using Retained Earnings as matching funds only.	PDF in AMIS.

TABLE 10—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
Equity Investment Matching Funds Documentation	FA Core Applicants: For-profit CDFIs that are using an Equity Investment(s) as matching funds only.	PDF or Word document in AMIS.

C. *Application Submission:* The CDFI Fund has a two-step process that requires the submission of application documents on separate deadlines and locations. The SF–424 must be submitted through *Grants.gov* and all other application documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved by the CDFI Fund. Applicants are only required to submit the OMB SF–424, Application for Federal Assistance form in *Grants.gov*. All other application information (listed in Table 10) will be submitted through AMIS. The deadline for submitting the SF–424 is listed in Tables 1 and 11.

All Applicants must register in the *Grants.gov* system to successfully submit the SF–424. The *Grants.gov* registration process can take 30 days or longer to complete and the CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible (refer to the following link: *http://www.grants.gov/web/grants/register.html*). Since the *Grants.gov* registration process requires Applicants to have DUNS and EIN numbers, Applicants without these required numbers should allow for additional time to complete the *Grants.gov* registration process. The CDFI Fund will not extend the application deadline to any Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization cannot be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the application, the application will be deemed ineligible.

D. *Dun & Bradstreet Universal Numbering System (DUNS):* Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

E. *System for Award Management (SAM):* Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. The SAM registration process can take two weeks or longer to complete. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit *https://www.sam.gov.*

TABLE 11—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number	Dun & Bradstreet	One (1) Week.*
Obtain an EIN Number	Internal Revenue Service (IRS)	Two (2) Weeks.*
Register in *SAM.gov*	System for Award Management (*SAM.gov*)	Two (2) Weeks.*
Register in *Grants.gov*	*Grants.gov*	One (1) Week.**

*Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS or EIN number, and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov.*

F. *Submission Dates and Times:*

1. *Submission Deadlines:* The following table provides the critical deadlines for the FY 2018 Funding Round.

TABLE 12—FY 2018 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time Eastern Time (ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	February 28, 2018	11:59 p.m.	Service Request via AMIS.
CDFI certification applications	March 2, 2018	11:59 p.m.	Electronically via AMIS.
Create AMIS Account (New Applicants)	March 2, 2018		AMIS.
SF424 (Application for Federal Assistance)	March 2, 2018	11:59 p.m.	Electronically via *Grants.gov.*
Last day to contact CDFI Program staff	April 2, 2018	5:00 p.m.	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421.
CDFI Program Application for FA *or* TA	April 4, 2018	11:59 p.m.	Electronically via AMIS.

2. *Confirmation of Application Submission in Grants.gov and AMIS:* Applicants are required to submit the OMB SF–424, Application for Federal Assistance through the *Grants.gov* system, under the CDFI Program Funding Opportunity Number. All other required application materials must be submitted through the AMIS website. Application materials submitted through both systems are due by the applicable deadlines. Applicants must submit the SF–424 on an earlier deadline from the other required application materials in AMIS. If the SF–424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any of the material submitted in AMIS, and the Application will be deemed ineligible.

a. *Grants.gov* Submission Information: Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

b. AMIS Submission Information: AMIS is a web-based portal where Applicants will directly enter their application information and add the required attachments listed in Table 10. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages the Applicant to allow sufficient time to confirm the Application content, review the material submitted, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact can submit the Application. If an Authorized Representative or Application Point of Contact does not submit the application, the application will be deemed ineligible. Applicants can only submit one Application. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

3. *Late Submission:* The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late submissions. The CDFI Fund does not consider a delay in any Federal government process to constitute a Federal government administrative or technological error. The CDFI Fund will not consider a late submission of the SF–424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or technological error.

a. SF–424 Late Submission: In cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424, the Applicant must submit a written request for acceptance of late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to request for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of ''Late SF–424 Submission Request.''

b. Application Late Submission: In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to request for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of ''Late Application Submission Request.''

G. *Funding Restrictions:* FA, PPC–FA, DF–FA, HFFI–FA and TA awards are limited by the following:

1. *FA awards:*

a. A Recipient shall use FA funds only for the eligible activities described in Section II.(C)(1) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *PPC–FA awards:*

a. A Recipient shall use PPC–FA funds only for the eligible activities described in Section II. (C)(5) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute PPC–FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. PPC–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay PPC–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *DF–FA awards:*

a. A Recipient shall use DF–FA funds only for the eligible activities described in Section II. (C)(2) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute DF–FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. DF–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay DF–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *HFFI–FA awards:*

a. A Recipient shall use HFFI–FA funds only for the eligible activities described in Section II. (C)(4) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute HFFI–FA funds to an Affiliate, Subsidiary, or any other entity, without the CDFI Fund's prior written approval.

c. HFFI–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay HFFI–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *TA grants:*

a. A Recipient shall use TA funds only for the eligible activities described in Section II. (C) (3) of this NOFA and its Assistance Agreement.

b. A Recipient may not distribute TA funds to an Affiliate, Subsidiary or any other entity, without the CDFI Fund's prior written consent.

c. TA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay TA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

V. Application Review Information

A. *Criteria:* If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the FA, DF–FA, PPC–FA, HFFI–FA, and TA Applications according the below process.

1. *Financial Assistance (FA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application using a five step review process illustrated in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process. Applicants applying as a Community Partnership must describe partnership in the Application pursuant to the requirements set forth in Table 8 and will be evaluated in accordance with the review process described below.

a. Step 1: Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status per Section III. Eligibility Information of this NOFA.

b. Step 2: Financial Analysis and Compliance Evaluation: Step 2 contains two main components: financial health analysis and compliance risk evaluation. The CDFI Fund will evaluate the financial health and viability of each Application using financial information provided by the Applicant. The CDFI Fund will also evaluate the compliance risk of each Application using information provided in the Application.

For the financial health analysis, each Application will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-four (24) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Financial Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund staff. If the Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant will not advance to Step 3.

For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Application using information provided in the Application. Each Application will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants must receive a Total Compliance Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund Staff. If the Total Compliance Composite Score remains four (4) or five (5) after CDFI Staff review, the Applicant will not advance to Step 3.

c. Step 3: Business Plan Review: Applicants that proceed to Step 3 will be evaluated on the soundness of each Applicant's comprehensive business plan. Two external non-CDFI Fund Reviewers will conduct the Step 3 evaluation. Reviewers will evaluate the Application sections listed in Table 13. All Applications will be reviewed in accordance with standard reviewer evaluation materials for the business plan review. Applications will be ranked based on Total Business Plan Scores, in descending order. In order to advance to Step 4, Applicants must receive a Total Business Plan Score that is either (1) equal to receiving a point score equivalent to a ''Good'' out of a ranking scale in descending order of Excellent, Good, Fair, Limited or Poor, in each section listed in Table 13 or (2) within the top 60 percent of the CORE applicant pool for CORE applicants or within the top 70 percent of the SECA

applicant pool for SECA applicants, whichever is greater. In the case of tied Total Business Plan Scores that would prevent an Applicant from moving to Step 4, all Applicants with the same score will progress to Step 4.

TABLE 13—STEP 3: FA BUSINESS PLAN REVIEW SCORING CRITERIA

FA application sections	Possible score	Score needed to advance
Executive Summary	Not Scored	N/A.
Business Strategy	12	N/A.
Market and Competitive Analysis	7	N/A.
Products and Services	12	N/A.
Management and Track Record	12	N/A.
Growth and Projections	7	N/A.
Total Business Plan Score	50	CORE Applicants: Within Top 60 percent of all CORE Applicant Step 3 Scores. SECA Applicants: Within Top 70 percent of all SECA Applicant Step 3 Scores.

d. Step 4: Policy Objective Review: The CDFI Fund internal reviewers will evaluate each Application to determine its ability to meet policy objectives of the CDFI Fund authorizing statute. The policy objectives considered in this evaluation are listed in Table 14 below. The CDFI Fund also conducts a due diligence review for Applications that includes an analysis of programmatic risk factors including, but not limited to: history of performance in managing Federal awards (including timeliness of reporting and compliance); reports and findings from audits; and the Applicant's ability to effectively implement Federal requirements, which could impact the Total Policy Objective Review Score. Each Applicant will be evaluated in each of the categories, which will result in a Total Policy Objective Review Composite Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total Policy Objective Review Scores.

TABLE 14—STEP 4: FA POLICY REVIEW SCORING CRITERIA

Section	Possible scores	High score	Score needed to advance
Economic Distress	1, 2, 3, 4, or 5	1	N/A.
Economic Opportunities	1, 2, 3, 4, or 5	1	N/A.
Partnerships	1, 2, 3, 4, or 5	1	N/A.
Total Policy Objective Review Composite Score.	1, 2, 3, 4, or 5	1	All Scores Advance.

e. Step 5: Award Amount Determination: The CDFI Fund determines an award amount for each Application based on the Step 4 Total Policy Objective Review Score, the Applicant's request amount, and on certain variables, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

2. *Healthy Food Financing Initiative–FA (HFFI–FA) Application Scoring, Award Selection, Review, and Selection Process:* Two external non-CDFI Fund reviewers will evaluate each HFFI–FA Application associated with a FA application that progresses to Step 4 of the FA Application review process. Reviewers will evaluate the Application sections listed in Table 15 and assign a Total HFFI- FA Score up to 25 points. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applications will be ranked based on total scores, in descending order. Applicants that fail to receive an FA award will not be considered for a HFFI–FA award.

The CDFI Fund conducts additional levels of due diligence for Applications that are in scoring contention for an HFFI–FA award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, quality of management systems and ability to meet award management standards, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively implement Federal requirements. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund may reduce awards sizes from requested amounts based on certain variables, including an Applicant's loan disbursement activity, total portfolio outstanding, and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

TABLE 15—STEP 3 HFFI–FA APPLICATION SCORING CRITERIA

HFFI–FA narrative sections	HFFI–FA applicants (points)
HFFI Target Market Profile	4
Healthy Food Financial Products	5
Healthy Food Development Services	2
Projected HFFI–FA Activities	7
HFFI Track Record, Management Capacity for Providing Healthy Food Financing, Healthy Food Financing Outcomes	7
Total HFFI–FA Score	25

3. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Application Scoring, Award Selection, Review, and Selection Process:* Application requests for PPC–FA awards are not scored. A CDFI Fund internal reviewer will evaluate the PPC–FA request of each associated FA Applicant that has advanced to the Step 4 review process. PPC–FA award amounts will be determined based on the total number of eligible Applicants and funding availability, the Applicant's requested amount, and on certain variables, including but not limited to, an Applicant's deployment track record, historical track record of deployment in Persistent Poverty Counties for Applicants that have received prior awards from the CDFI Fund, minimum award size, and funding availability.

4. *Disability Funds-Financial Assistance (DF–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each DF–FA Application associated with a FA application progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application and assign a Total DF- FA Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total DF- FA Score. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive an FA award will not be considered for a DF–FA award. Award amounts will be determined on the basis of the Total DF–FA Score, the Applicant's requested amount, and on certain variables, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. The CDFI Fund will make awards to the highest scoring applicants first. Award amounts may be reduced from the requested award amount as a result of this analysis. The DF–FA award is evaluated independently from the FA award and will not affect the FA award evaluation or size.

TABLE 16—STEP 3 DF–FA APPLICATION SCORING CRITERIA

Section	Possible scores	High score
DF–FA Narrative Questions	1, 2, 3, 4, or 5	1
Total DF–FA Score	1, 2, 3, 4, or 5	1

5. *Technical Assistance (TA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application to determine its eligibility pursuant to Section III. Eligibility Information of this NOFA. If the Application meets the eligibility criteria, the CDFI Fund will evaluate each TA Application using standard scoring criteria in the Business Plan Review (Table 17). An Applicant must receive a minimum Total TA Business Plan Score of 60 points for the TA components in order to be considered for an award. Emerging CDFI or Certifiable CDFI Applicants must achieve a minimum score of 35 points in Section I to be considered for an award and to be reviewed in Section II.

An Applicant that is a Certified CDFI will be evaluated on the demonstrated need for TA funding to build the CDFI's capacity, further the Applicant's strategic goals, and achieve impact within the Applicant's Target Market. An Applicant that is an Emerging CDFI or Certifiable CDFI will be evaluated on the Applicant's demonstrated capability and plan to achieve CDFI certification within three years, or if a prior awardee, the certification performance goal and measure stated in its prior Assistance Agreement. An Applicant that is an Emerging CDFI and Certifiable CDFI will also be evaluated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals.

The CDFI Fund will score each part of the TA Business Plan Review as indicated in Table 17.

TABLE 17—TA BUSINESS PLAN REVIEW SCORING CRITERIA

TA application sections	Emerging CDFI or Certifiable CDFI (points)	Certified CDFI (points)
Section I:		
Primary Mission	15	N/A
Financing Entity	15	N/A
Target Market	15	N/A
Accountability	15	N/A

TABLE 17—TA BUSINESS PLAN REVIEW SCORING CRITERIA—Continued

TA application sections	Emerging CDFI or Certifiable CDFI (points)	Certified CDFI (points)
Development Services	15	N/A
Section II:		
Organization Overview	5	20
Management and Staff	5	20
Community Coordination	5	20
Financial Performance	5	20
Organizational Impact	5	20
Total TA Business Plan Score	100	100

Each TA Application will be evaluated by one internal CDFI Fund reviewer. Internal reviewers must complete the CDFI Fund's conflict of interest process. The CDFI Fund's application conflict of interest policy is located on the CDFI Fund's website. All Applications will be reviewed in accordance with CDFI Fund standard reviewer evaluation materials for the Business Plan Review. Applications will be ranked based on Total TA Business Plan Score, in descending order. In the case of tied scores that would prohibit the Application from progressing to the next level of review, Certified Applicants will be ranked first according to each Organization Overview score, and Emerging CDFI and Certifiable CDFI Applicants will be ranked first according to the total Section I score.

The CDFI Fund conducts additional levels of due diligence for Applications that are in scoring contention for an award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively implement Federal requirements. The CDFI Fund will also evaluate the Applicant's ability to meet certification criteria of being a legal entity and a non-government entity. Award amounts may be reduced as a result of this analysis in addition to consideration of the eligibility of an Applicant's funding request and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

6. *Insured Depository Institutions:* The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Subsidiary CDFI Certified Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Agency identifies safety and soundness concerns, the CDFI Fund will assess whether the concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

7. *Non-Regulated Institutions:* In accordance with the CDFI Program's authorizing statute and regulations, the CDFI Fund must ensure, to the maximum extent practicable, that recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. *Anticipated Award Announcement:* The CDFI Fund anticipates making CDFI Program award announcements after September 10, 2018 and before September 30, 2018.

C. *Application Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects an Applicant's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's award decisions are final, and there is no right to appeal the decisions.

D. *External Non-CDFI Fund Reviewers:* All external non-CDFI Fund reviewers are selected based on criteria that includes a professional background in community and economic development finance, and experience reviewing the financial statements of all CDFI institution types. Reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund. The CDFI Fund's application reader conflict of interest policy is located on the CDFI Fund's website.

VI. Federal Award Administration Information

A. *Award Notification:* Each successful Applicant will receive an email ''notice of award'' notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. *Assistance Agreement:* Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award's terms and conditions, including but not

be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) performance goals and measures; and (vi) reporting requirements. FA Assistance Agreements have three-year periods of performance. TA Assistance Agreements have two-year periods of performance for Certified CDFIs and three-year periods of performance for Emerging CDFIs or Certifiable CDFIs.

1. *Certificate of Good Standing:* All FA and TA Recipients that are not Insured Depository Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing no later than 60 days after they submit their Applications.

2. *Closing:* Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and an initial payment of FA or TA may be made. FA Recipients that are subject to the matching funds requirement will not receive a payment until 100 percent of their matching funds are In-Hand. The first payment is the estimated amount of award that the Recipient states in its Application that it will use for eligible FA or TA activities in the first 12 months after the award. The CDFI Fund reserves the right to increase the first payment amount on any award to ensure that any subsequent payments are greater than $25,000 for FA and $5,000 for TA awards.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment in accordance with the Uniform Requirements. The advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award payments. Any documentation in addition to the Assistant Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. *Requirements Prior to Entering into an Assistance Agreement:* If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund's attention that: adversely affects the Recipient's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed the Uniform Requirements; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the authorized representative of the Recipient, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements.	• If a Recipient received a prior award under any CDFI Fund program and is not current with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until reporting requirements are met. • If such a Recipient is unable to meet the requirement within the timeframe specified, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA. • The automated systems the CDFI Fund uses only acknowledge a report's receipt and it not a determination of meeting reporting requirements.
Failure to maintain CDFI Certification.	• An FA Recipient must be a Certified CDFI prior to entering into an Assistance Agreement. • If an FA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Pending resolution of noncompliance.	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination. • If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Noncompliance status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant with any previously executed CDFI award agreement(s) and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the default by taking actions the CDFI Fund has specified within the specified timeframe. If the Recipient is unable to meet the cure requirement within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Compliance with Federal civil rights requirements.	• If prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT—Continued

Requirement	Criteria
Do Not Pay	• The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. • The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient is identified as an ineligible recipient in the Do Not Pay database.
Safety and soundness	• If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve safety and soundness conditions prior to entering into an Assistance Agreement.

C. Reporting

1. *Reporting requirements:* On an annual basis for the period of performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual Report with the following components:

TABLE 19—ANNUAL REPORTING REQUIREMENTS

Financial Statement Audit Report (Non-profit Recipient).	A Non-profit Recipient must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit Report (For-Profit Recipient).	For-profit Recipients must submit a Financial Statement Audit report in AMIS, along with a statement of financial condition audited or reviewed by an independent certified public accountant.
Single Audit Report (if applicable) (or similar report).	If a Recipient is required to complete a Single Audit Report, it should be submitted to the Federal Audit Clearinghouse (see 2 CFR Subpart F—Audit Requirements in the Uniform Requirements) and AMIS (optional). For-profit Recipients are required to complete and submit a similar report directly to the CDFI Fund.
Institution Level Report (ILR)	The ILR is a report used to collect compliance and performance data from CDFI Fund Recipients. The ILR is submitted through AMIS and captures organizational information, financial position, lending and investing activities, community development outputs, and development services. • A CDFI Subsidiary Insured Depository Institution that receives a transfer of any portion of an FA award from a CDFI Depository Institution Holding Company Recipient must also submit an ILR.
Transaction Level Report (TLR)	The TLR is a report used to collect compliance and performance data from CDFI Fund Recipients. The TLR is submitted through AMIS and captures data on each individual loan and investment in the Recipient's portfolio. • A CDFI Subsidiary Insured Depository Institutions that receives a transfer of any portion of an FA award from a CDFI Depository Institution Holding Company Recipient must also submit a TLR. • The TLR is not required for TA Recipients.
Federal Financial Report/OMB Standard Form 425.	If the Recipient receives a TA award, it must submit the Federal Financial Report/*OMB Standard Form 425* via AMIS.
Uses of Award Report	If the Recipient receives an FA or TA award, it must submit the Uses of Award Report via AMIS.
Shareholders Report	If the Assistance is in the form of an Equity Investment, the Recipient must submit shareholder information to the CDFI Fund showing the class, series, number of shares and valuation of capital stock held or to be held by each shareholder. The Shareholder Report must be submitted for as long as the CDFI Fund is an equity holder.
Performance Progress Report	If the Recipient receives an FA or TA award, it must submit information on the status of compliance with the performance goals and measures via AMIS.

Each Recipient is responsible for the timely and complete submission of the Annual Reporting requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements in the Assistance Agreement and to assess the impact of the CDFI Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. *Financial Management and Accounting:* The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal award. These systems must be sufficient to permit the preparation of reports required by general and program specific terms and conditions, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the CDFI Program award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor compliance; take action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Daylight Savings Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 12. The CDFI Fund strongly recommends applicants submit questions to the CDFI Fund via an AMIS service request to the CDFI Program, Certification, Compliance Monitoring and Evaluation, or IT Help Desk. The CDFI Fund will post on its website responses to reoccurring questions received about this Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov.* Table 20 lists CDFI Fund contact information:

TABLE 20—CONTACT INFORMATION

Type of question	Preferred method	Telephone No. (not toll free)	Email addresses
CDFI Program	Service Request via AMIS	202–653–0421, option 1	*cdfihelp@cdfi.treas.gov.*
CCME	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
AMIS—IT Help Desk	Service Request via AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

B. *Information Technology Support:* For IT Assistance, submit an AMIS Service Request (Record Type of ''General Inquiry''). In the Service Request form, select the appropriate program, then select ''AMIS Technical Problem'' as the Type. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653–0422 for assistance (this is not a toll free number).

C. *Communication with the CDFI Fund:* The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative) listed in this NOFA's application materials, email addresses, fax and phone numbers, and office locations.

D. *Civil Rights and Diversity:* Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

VIII. Other Information

A. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Program, and NACA Program Application has been assigned the following control number: 1559–0021. The DF–FA questions have been assigned the following control number: 1559—New.

B. *Application Information Sessions:* The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at *http://www.cdfifund.gov.*

Authority: 12 U.S.C. 4701, et seq; 12 CFR parts 1805 and 1815; 2 CFR part 200.

Mary Ann Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2018–01997 Filed 1–31–18; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have 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 these persons, and these vessels, 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; 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 website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

A. On January 24, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons, and the following vessels subject to U.S. jurisdiction, are blocked pursuant to the relevant sanctions authorities listed below. Dealings in property subject to U.S. jurisdiction in which a person identified as Government of North Korea has an interest are prohibited effective as of the date of that status, which may be earlier than the date of OFAC's determination.

Individuals

1. KIM, Song (a.k.a. KIM, So'ng), Linjiang, China; DOB 11 Jan 1964; nationality Korea, North; Gender Male; Representative of the Korea Ryonbong General Corporation in Linjiang, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of Executive Order 13687 of January 2, 2015, ''Imposing Additional Sanctions With Respect to North Korea'' (E.O. 13687) for being an official of the Workers' Party of Korea.

2. RYANG, Tae Chol (a.k.a. RYANG, Tae-ch'o'l), Tumen, China; DOB 07 Jan 1969; nationality Korea, North; Gender Male; Representative of the Korea Ryonbong General Corporation in Tumen, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

3. PAK, Kwang Hun (a.k.a. BAK, Gwang Hun; a.k.a. PAK, Gwang Hun; a.k.a. PAK, Kwang-hun), Vladivostok, Russia; DOB 01 Jan 1970 to 31 Dec 1970; nationality Korea, North; Gender Male; Representative of Korea Ryonbong General Corporation in Vladivostok, Russia (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

4. RI, Myong Hun (a.k.a. RI, Myo'ng-hun), Korea, North; DOB 14 Mar 1969; Gender Male; Passport 381420089 expires 11 Oct 2016 (individual) [DPRK2].

Designated pursuant to section 1(a)(ii) of E.O. 13687 for being an official of the Government of North Korea.

5. HAN, Kwon U (a.k.a. HAN, Kon U; a.k.a. HAN, Ko'n-u; a.k.a. HAN, Kwo'n-u), Zhuhai, China; DOB 21 Aug 1962; Passport 745434880; Korea Ryonbong General Corporation Representative in Zhuhai, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

6. KIM, Kyong Hak (a.k.a. KIM, Kyo'ng-hak), Zhuhai, China; DOB 27 Nov 1973; nationality Korea, North; Passport 654231856; Korea Ryonbong General Corporation Representative in Zhuhai, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

7. KIM, Pyong Chan (a.k.a. KIM, Pyo'ng-ch'an), Korea, North; Zhuhai, China; DOB 09 Jun 1961; Workers' Party of Korea Official (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

8. KIM, Ho Kyu (a.k.a. KIM, Ho Gyu; a.k.a. KIM, Ho'-kyu; a.k.a. KIM, Ho-Kyu; a.k.a. PARK, Aleksei), Nakhodka, Russia; DOB 15 Sep 1970; nationality Korea, North; Gender Male; Korea Ryonbong General Corporation Official (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

9. PAK, Tong Sok (a.k.a. PAK, Tong-So'k), Abkhazia, Georgia; DOB 15 Apr 1965; nationality Korea, North; Passport 745120209 (Korea, North) expires 26 Feb 2020; Korea Ryonbong General Corporation Official (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

10. JONG, Man Bok (a.k.a. CHO'NG, Man-pok), Dandong, China; DOB 23 Dec 1958; nationality Korea, North; Gender Male; Korea Ryonbong General Corporation Representative in Dandong, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

11. KIM, Man Chun (a.k.a. KIM, Man-ch'un), No. 567 Xinshi Street, Linjiang City, China; DOB 25 May 1966; nationality Korea, North; Gender Male; Passport PS654320308; Korea Ryonbong General Corporation Representative in Linjiang, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

12. RI, Tok Jin (a.k.a. RI, To'k-chin), Ji'an, China; DOB 26 Jul 1957; nationality Korea, North; Korea Ryonbong General Corporation Representative in Ji'an, China (individual) [DPRK2].

Designated pursuant to section 1(a)(iii) of E.O. 13687 for being an official of the Workers' Party of Korea.

13. CHOE, Song Nam (a.k.a. CH'OE, So'ng-nam), Shenyang, China; DOB 07 Jan 1979; Passport 563320192 expires 09 Aug 2018; Daesong Bank Representative (individual) [DPRK4].

Designated pursuant to section 1(a)(i) of Executive Order 13810 of September 20, 2017, ''Imposing Additional Sanctions With Respect to North Korea'' (E.O. 13810) for operating in the financial services industry in North Korea.

14. KIM, Chol (a.k.a. KIM, Ch'o'l), Dalian, China; DOB 27 Sep 1964; Korea United Development Bank representative (individual) [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the financial services industry in North Korea.

15. Ko, Il Hwan (a.k.a. KO, Il-hwan), Shenyang, China; DOB 28 Aug 1967; nationality Korea, North; Gender Male; Passport 927220424 expires 12 Jun 2022; Korea Daesong Bank official (individual) [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the financial services industry in North Korea.

16. PAEK, Jong Sam (a.k.a. PAEK, Chong-sam), Shenyang, China; DOB 17 Jan 1964; nationality Korea, North (individual) [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the financial services industry in North Korea.

Entities

1. MINISTRY OF CRUDE OIL INDUSTRY (a.k.a. CRUDE OIL INDUSTRY MINISTRY; a.k.a. GENERAL BUREAU OF PETROLEUM INDUSTRY; a.k.a. MINISTRY OF CRUDE OIL), Pyongyang, Korea, North [DPRK3].

Identified as meeting the definition of the Government of North Korea as set forth in section 9(d) of Executive Order 13722 of March 15, 2016, ''Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea'' (E.O. 13722).

2. HANA ELECTRONICS JVC (a.k.a. HANA ELECTRONIC JV COMPANY; a.k.a. HANA ELECTRONICS), PYONGYANG, Korea, North [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the manufacturing industry in North Korea.

3. BEIJING CHENGXING TRADING CO. LTD. (Chinese Simplified: 5317; 4EAC; 5174; 8D38; 6613; 709; 9650; 516C; 53F8;), Room 2206 Floor 19, 602 Wangjing Yuan, Zhaoyang District, Beijing, China [DPRK4].

Designated pursuant to section 1(a)(iii) of E.O. 13810 for having engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology.

4. DANDONG JINXIANG TRADE CO., LTD. (a.k.a. CHINA DANDONG KUMSANG TRADE COMPANY, LIMITED; a.k.a. DANDONG METAL COMPANY; a.k.a. JINXIANG TRADING COMPANY), Room 303, Unit 2, Building Number 3, Number 99 Binjiang Lu (Road), Zhenxing District, Dandong, China; Room 303–01, Number 99–3, Binjiang Zhong Lu (Road), Dandong, China; Number 5, Tenth Street, Zhenxing District, Dandong, Liaoning, China; 245–11, Number 1 Wanlian Road, Shenhe District, Shenyang, China; Room 1101, No B, Jiadi Building, Business and Tourist, China; Room 303, Unit 2, 3 Haolou, Building 99 Binjiang Middle Rd., Zhenxing, Dandong,

Liaoning 118000, China; Nationality of Registration China [DPRK4].

Designated pursuant to section 1(a)(iii) of E.O. 13810 for having engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology.

5. CK INTERNATIONAL LTD, c/o Korea Uljibong Shipping Co., Jongbaek 1-dong, Rakrang-guyok, Pyongyang, Korea, North; Room 9, Unit A, 3rd Floor, Cheong Sun Tower, 116–118, Wing Lok Street, Sheung Wan, Hong Kong; Company Number IMO 5980332 [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the transportation industry in North Korea.

6. GOORYONG SHIPPING CO LTD (f.k.a. GOORYONG SHIPPING BANGKOK), Changgyong 2-dong, Sosong-guyok, Pyongyang, Korea, North; Warranton Ville 458Soi 5Pattanakan Soi 44Suanluang, Bangkok 10250, Thailand; Company Number IMO 5055293 [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the transportation industry in North Korea.

7. HWASONG SHIPPING CO LTD, Changgyong dong, Sosong-guyok, Pyongyang, Korea, North; Company Number IMO 543400 [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the transportation industry in North Korea.

8. KOREA KUMUNSAN SHIPPING CO, Pongnam-dong, Pyongchon-guyok, Pyongyang, Korea, North; Company Number IMO 5110478 [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the transportation industry in North Korea.

9. KOREA MARINE & INDUSTRIAL TRDG (a.k.a. KOREA MARINE AND INDUSTRIAL TRDG), Changgyong 2-dong, Sosong-guyok, Pyongyang, Korea, North; Company Number IMO 5928635 [DPRK4].

Designated pursuant to section 1(a)(i) of E.O. 13810 for operating in the transportation industry in North Korea.

Vessels

1. EVER GLORY Democratic People's Republic of Korea flag; Vessel Registration Identification IMO 8909915 (vessel) [DPRK4] (Linked To: KOREA MARINE & INDUSTRIAL TRDG).

Identified pursuant to E.O. 13810 as property in which KOREA MARINE & INDUSTRIAL TRDG, a person whose property and interests in property are blocked pursuant to E.O. 13810, has an interest.

2. GOO RYONG Democratic People's Republic of Korea flag; Vessel Registration Identification IMO 8201870 (vessel) [DPRK4] (Linked To: GOORYONG SHIPPING CO LTD).

Identified pursuant to E.O. 13810 as property in which GOORYONG SHIPPING CO LTD, a person whose property and interests in property are blocked pursuant to E.O. 13810, has an interest.

3. HWA SONG Democratic People's Republic of Korea flag; Vessel Registration Identification IMO 8217685 (vessel) [DPRK4] (Linked To: HWASONG SHIPPING CO LTD).

Identified pursuant to E.O. 13810 as property in which HWASONG SHIPPING CO LTD, a person whose property and interests in property are blocked pursuant to E.O. 13810, has an interest.

4. KUM UN SAN Democratic People's Republic of Korea flag; Vessel Registration Identification IMO 8720436 (vessel) [DPRK4] (Linked To: KOREA KUMUNSAN SHIPPING CO).

Identified pursuant to E.O. 13810 as property in which KOREA KUMUNSAN SHIPPING CO, a person whose property and interests in property are blocked pursuant to E.O. 13810, has an interest.

5. UL JI BONG 6 Democratic People's Republic of Korea flag; Vessel Registration Identification IMO 9114555 (vessel) [DPRK4] (Linked To: CK INTERNATIONAL).

Identified pursuant to E.O. 13810 as property in which CK INTERNATIONAL, a person whose property and interests in property are blocked pursuant to E.O. 13810, has an interest.

6. UN RYUL Democratic People's Republic of Korea flag; Vessel Registration Identification IMO 8514409 (vessel) [DPRK4] (Linked To: KOREA MARINE & INDUSTRIAL TRDG).

Identified pursuant to E.O. 13810 as property in which KOREA MARINE & INDUSTRIAL TRDG, a person whose property and interests in property are blocked pursuant to E.O. 13810, has an interest.

B. On January 24, 2018, OFAC published the following revised identifier information for one individual and one entity on OFAC's Specially Designated Nationals and Blocked Persons List whose property and interests in property are blocked pursuant to E.O. 13722:

1. HUISH, Irina Igorevna (a.k.a. BURLOVA, Irina), Russia; South Africa; DOB 18 Jan 1973; Gender Female (individual) [DPRK3] (Linked To: VELMUR MANAGEMENT PTE LTD).

2. HANA BANKING CORPORATION LTD (a.k.a. BRILLIANCE BANKING CORPORATION, LTD.; a.k.a. GORGEOUS BANK OF NORTH KOREA; a.k.a. HUALI BANK (Chinese Simplified: 671D; 9C9C; 534E; 4E3D; 94F6; 884C;); a.k.a. HWARYO BANK (Korean:D654; B824;D589;)), Haebangsan Hotel, Jungsong-Dong, Sungri Street, Central District, Pyongyang, Korea, North; Dandong, China; SWIFT/BIC BRBKKPP1XXX [DPRK3].

Dated: January 29, 2018.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2018–02002 Filed 1–31–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Request for Information on the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers (PCAFC); Correction

AGENCY: Department of Veterans Affairs.

ACTION: Request for information; correction.

SUMMARY: On January 5, 2018, the Department of Veterans Affairs (VA) published a Notice, Request for Information in the **Federal Register**, 83 FR 701, requesting information regarding its Program of Comprehensive Assistance for Family Caregivers (PCAFC). That notice contained incorrect information.

DATES: Comments in response to this request for information must be received by VA on or before February 5, 2018.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand delivery to the Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''Notice of Request for Information on the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers (PCAFC)''. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. During the comment period, comments may also be viewed online through the Federal Docket

Management System at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Margaret Kabat, National Director, Caregiver Support Program, 10P4C, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–6780 (this is not a toll free number).

Correction

In the **Federal Register** of January 5, 2018, in FR doc 18–0004, on page 701 in the third column, correct the second sentence in the second-to-last paragraph to read as follows:

VA believes that 30 days is sufficient to provide comments, as the individuals, groups, and entities interested in this program likely have information and opinions readily available or can quickly compile and submit such information.

Dated: January 29, 2018.

Michael Shores,

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

[FR Doc. 2018–01980 Filed 1–31–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Advisory Committee on Cemeteries and Memorials, Amended

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), National Cemetery Administration (NCA), is seeking nominations of qualified candidates to be considered for appointment as a member of the Advisory Committee on Cemeteries and Memorials (herein-after in this section referred to as ''the Committee''). The Committee was established to advise the Secretary of VA with respect to the administration of VA national cemeteries, soldiers' lots and plots, which are the responsibility of the Secretary, the erection of appropriate memorials and the adequacy of Federal burial benefits.

DATES: Nominations of qualified candidates are being sought to fill upcoming vacancies on the Committee. Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on February 9, 2018.

ADDRESSES: All nominations should be mailed to National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, (40A1), Washington, DC 20420, or faxed to (202) 273–6709.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hamilton, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, (40A1), Washington, DC 20420, telephone (202) 461–5681. A copy of Committee charter and list of the current membership can be obtained by contacting Ms. Hamilton or by accessing the website managed by NCA at: *http://www.cem.va.gov/cem/about/advisory_committee.asp.*

SUPPLEMENTARY INFORMATION: The Advisory Committee on Cemeteries and Memorials (ACCM) was established to advise the Secretary of VA with respect to the administration of VA national cemeteries, soldiers' lots and plots, which are the responsibility of the Secretary, the erection of appropriate memorials and the adequacy of Federal burial benefits. The Committee responsibilities include:

(1) Advising the Secretary on VA's administration of burial benefits and the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits;

(2) Providing to the Secretary and Congress periodic reports outlining recommendations, concerns, and observations on VA's delivery of these benefits and services to Veterans;

(3) Meeting with VA officials, Veteran Service Organizations, and other stakeholders to assess the Department's efforts in providing burial benefits and outreach on these benefits to Veterans and their dependents;

(4) Undertaking assignments to conduct research and assess existing burial and memorial programs; to examine potential revisions or expansion of burial and memorial programs and services; and to provide advice and recommendations to the Secretary based on this research.

Membership Criteria and Qualification: NCA is requesting nominations for upcoming vacancies on the Committee. The Committee is composed of up to twelve members and several ex-officio members.

The members of the Committee are appointed by the Secretary of Veteran Affairs from the general public, including but not limited to:

(1) Veterans or other individuals who are recognized authorities in fields pertinent to the needs of Veterans;

(2) Veterans who have experience in a military theater of operations;

(3) Recently separated service members;

(4) Officials from Government, non-Government organizations (NGOs) and industry partners in the provision of memorial benefits and services, and outreach information to VA beneficiaries.

The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

To the extent possible, the Secretary seeks members who have diverse professional and personal qualifications, including but not limited to prior military experience and military deployments, experience working with Veterans, and experience in large and complex organizations, and subject matter expertise in the areas described above. We ask that nominations include information of this type so that VA can ensure diverse Committee membership.

Requirements for Nomination Submission: Nominations should be typed (one nomination per nominator). Nomination package should include:

(1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating the willingness to serve as a member of the Committee;

(2) The nominee's contact information, including name, mailing address, telephone numbers, and email address;

(3) The nominee's curriculum vitae; and

(4) A summary of the nominee's experience and qualifications relative to the membership considerations described above.

Individuals selected for appointment to the Committee shall be invited to serve a two-year term. Committee members will receive a stipend for attending Committee meetings, including per diem and reimbursement for travel expenses incurred.

The Department makes every effort to ensure that the membership of VA federal advisory committees is diverse in terms of points of view represented and the committee's capabilities. Appointments to this Committee shall be made without discrimination because of a person's race, color, religion, sex, sexual orientation, gender identify, national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An

ethics review is conducted for each selected nominee.

Dated: January 29, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–01974 Filed 1–31–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0068]

Agency Information Collection Activity: Application for Service-Disabled Veterans Insurance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed from veterans to apply for Service Disabled Veterans Insurance, to designate a beneficiary and to select an optional settlement. The information is required by law, 38 U.S.C., Section 1922.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 2, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0068'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Application for Service-Disabled Veterans Insurance VA Form 29–4364 and VA Form 29–0151.

OMB Control Number: 2900–0068.

Type of Review: Reinstatement of a previously approved collection.

Abstract: These forms are used by veterans to apply for Service Disabled Veterans Insurance, to designate a beneficiary and to select an optional settlement. The information is required by law, 38 U.S.C., Section 1922.

Affected Public: Individuals and households.

Estimated Annual Burden: 8,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–01945 Filed 1–31–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Specially Adapted Housing Assistive Technology Grant Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of funding availability.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for the Specially Adapted Housing Assistive Technology (SAHAT) Grant Program for fiscal year (FY) 2018. The objective of the grant is to encourage the development of new assistive technologies for specially adapted housing. This notice is intended to provide applicants with the information necessary to apply for the SAHAT Grant Program. Registration will be available at *www.Grants.gov*. VA strongly recommends referring to the Specially Adapted Housing Assistive Technology Grant Program regulation in conjunction with this notice. The registration process described in this notice applies only to applicants who will register to submit project applications for FY 2018 SAHAT Grant Program funds.

DATES: Applications for the SAHAT Grant Program must be submitted via *www.Grants.gov* by 11:59 p.m. Eastern Time on February 25, 2018. The SAHAT Grant Program application package for funding opportunity, VA–SAHAT–18–03, is available through *www.Grants.gov* and is listed as VA-Specially Adapted Housing Assistive Technology Grant Program. Applications may not be sent by mail, email, or facsimile. All application materials must be in a format compatible with the *www.Grants.gov* application submission tool. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. Technical assistance with the preparation of an initial SAHAT Grant Program application is available by contacting the program official listed below.

FOR FURTHER INFORMATION CONTACT: Bryant Lacey (Program Manager), Specially Adapted Housing Program (262), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8955. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Full Text of Announcement: This notice is divided into eight sections. Section I provides a summary of and background information on the SAHAT Grant Program as well as the statutory authority, desired outcomes, funding priorities, definitions, and delegation of authority. Section II provides award information, including funding availability, and the anticipated start date of the SAHAT Grant Program. Section III provides detailed information on eligibility and the threshold criteria for submitting an application. Section IV provides detailed application and submission information, including how to request an application, application content, and

submission dates and times. Section V describes the review process, scoring criteria, and selection process. Section VI provides award administration information such as award notices and reporting requirements. Section VII provides agency contacts. Section VIII provides additional information related to the SAHAT Grant Program. This notice includes citations from 38 CFR part 36, which applicants and stakeholders are expected to read to increase their knowledge and understanding of the SAHAT Grant Program.

I. Program Description

A. Summary

Pursuant to the Veterans' Benefits Act of 2010 (Pub. L. 111–275, 124 Stat. 2864), the Secretary of Veterans Affairs (Secretary), through the Loan Guaranty Service (LGY) of the Veterans Benefits Administration (VBA), is authorized to provide grants of financial assistance to develop new assistive technology. The objective of the SAHAT Grant Program is to encourage the development of new assistive technologies for adapted housing.

B. Background

LGY currently administers the Specially Adapted Housing (SAH) Program. Through this program, LGY provides funds to eligible veterans and servicemembers with certain service-connected disabilities to help purchase or construct an adapted home, or modify an existing home, to allow them to live more independently. Please see 38 U.S.C. 2101(a)(2)(B) and (C) and 38 U.S.C. 2101(b)(2) for a list of qualifying service-connected disabilities. Currently, most SAH adaptations involve structural modifications such as ramps, wider hallways and doorways, and roll-in showers and other accessible bathroom features, etc. For more information about the SAH Program, please visit: *http://www.benefits.va.gov/homeloans/adaptedhousing.asp.*

VA acknowledges there are many emerging technologies and improvements in building materials that could improve home adaptions or otherwise enhance a veteran's or servicemember's ability to live independently. Therefore, in 38 CFR 36.4412(b)(2), VA has defined ''new assistive technology'' as an advancement that the Secretary determines could aid or enhance the ability of an eligible individual, as defined in 38 CFR 36.4401, to live in an adapted home. SAHAT funding will support the creation of assistive technologies that veterans and servicemembers can use in order to facilitate optimal independence in their homes.

Please Note: SAHAT funding does not support the construction or modification of residential dwellings for accessibility. Veterans and servicemembers interested in receiving assistance to adapt a home are encouraged to review the following factsheet: *http://www.prosthetics.va.gov/factsheet/PSAS-FactSheet-Housing-Adaptation-Programs.pdf* to identify Home Adaptation programs offered by VA.

C. Statutory Authority

Public Law 111–275, the Veterans' Benefits Act of 2010 (the Act), was enacted on October 13, 2010. Section 203 of the Act amended chapter 21, title 38, U.S.C., to establish the SAHAT Grant Program. The Act authorized VA to provide grants of up to $200,000 per fiscal year, through September 30, 2016, to a ''person or entity'' for the development of specially adapted housing assistive technologies. The Act limited the aggregate amount of such grants VA may award in any fiscal year to $1 million.

On September 29, 2017, Public Law 115–62, the Department of Veterans Affairs Expiring Authorities Act of 2017 was enacted. Section 408 of title IV extended the authority for VA to provide grants in the manner listed above, through September 30, 2018. See 38 U.S.C. 2108 and 38 CFR 36.4412.

D. Desired Outcomes and Funding Priorities

Grantees will be expected to leverage grant funds to develop new assistive technologies for specially adapted housing. In 38 CFR 36.4412(f)(2), VA set out the scoring criteria and the maximum points allowed for each criterion. As explained in the preambles to both the proposed and final rules, while the scoring framework is set out in the regulation text, each notice will address the scoring priorities for that particular grant cycle. 79 FR 53146, 53148, Sept. 8, 2014; 80 FR 55763, 55764, Sept. 17, 2014. For FY 2018, the Secretary has established innovation and unmet needs, as described in scoring criteria 1 and 2 contained in Section V(A) of this notice, as top priorities. Additional information regarding how these priorities will be scored is contained in Section V(A) of this notice.

E. Definitions

Definitions of terms used in the SAHAT Grant Program are found at 38 CFR 36.4412(b).

F. Delegation of Authority

Pursuant to 38 CFR 36.4412(i), each VA employee appointed to or lawfully fulfilling any of the following positions is delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Secretary with respect to the SAHAT Grant Program authorized by 38 U.S.C. 2108:

1. Under Secretary for Benefits
2. Deputy Under Secretary for Economic Opportunity
3. Director, Loan Guaranty Service
4. Deputy Director, Loan Guaranty Service

II. Award Information

A. Funding Availability

The aggregate amount of assistance VA may award in any fiscal year is limited to $1 million. This funding will be provided as an assistance agreement in the form of grants. The number of assistance agreements VA will fund as a result of this notice will be based on the quality of the technology grant applications received and the availability of funding. However, the maximum amount of assistance a technology grant applicant may receive in any fiscal year is limited to $200,000.

B. Additional Funding Information

Funding for these projects is not guaranteed and is subject to the availability of funds and the evaluation of technology grant applications based on the criteria in this announcement. In appropriate circumstances, VA reserves the right to partially fund technology grant applications by funding discrete portions or phases of proposed projects that relate to adapted housing. Award of funding through this competition is not a guarantee of future funding. The SAHAT Grant Program is administered annually and does not guarantee subsequent awards. Renewal grants to provide new assistive technology will not be considered under this announcement.

C. Start and Close-out Date

The anticipated start date of grants funded under this announcement is April 2, 2018. Grant projects must be closed out by September 30, 2019.

III. Eligibility Information

A. Eligible Applicants

As authorized by 38 U.S.C. 2108, the Secretary may provide a grant to a ''person or entity'' for the development of specially adapted housing assistive technologies. In order to foster competition and best serve the needs of

veterans and servicemembers, VA is placing no restrictions on the types of eligible entities, except as noted in Section III(C) of this notice.

B. Cost Sharing or Matching

There is no cost sharing, matching, or cost participation for the SAHAT Grant Program. However, leveraged resources will be considered as an evaluation criterion during the application review process (see scoring criterion 6 in Section V of this announcement). Leveraged resources are not included in the approved budget (outlined in the Standard Form 424A—BUDGET INFORMATION—Non-Construction Programs) for the project and need not be an eligible and allowable cost under the grant. Any form of proposed leveraging that is evaluated under Section V scoring criteria must be included in the application, and the application must describe how the technology grant applicant will obtain the leveraged resources and what role VA funding will play in the overall project.

C. Threshold Criteria

As stated in Section III(A), VA is placing no restrictions on the types of eligible entities. However, all technology grant applicants and applications must meet the threshold criteria set forth below. Failure to meet any of the following threshold criteria in the application will result in the automatic disqualification for funding consideration. Ineligible participants will be notified within 30 days of the finding of disqualification for award consideration based on the following threshold criteria:

1. Projects funded under this notice must involve new assistive technologies that the Secretary determines could aid or enhance the ability of a veteran or servicemember to live in an adapted home.
2. Projects funded under this notice must not be used for the completion of work which was to have been completed under a prior grant.
3. Applications in which the technology grant applicant is requesting assistance funds in excess of $200,000 will not be reviewed.
4. Applications that do not comply with the application and submission information requirements provided in Section IV of this notice will be rejected.
5. Applications submitted via mail, email, or facsimile will not be reviewed.
6. Applications must be received through *www.Grants.gov*, as specified in Section IV of this announcement, on or before the application deadline, February 25, 2018. Applications received through *www.Grants.gov* after the application deadline will be considered late and will not be reviewed.
7. Technology grant applicants that have an outstanding obligation to the Federal Government that is in arrears or have an overdue or unsatisfactory response to an audit will be deemed ineligible.
8. Technology grant applicants in default by failing to meet the requirements for any previous Federal assistance will be deemed ineligible.
9. Applications submitted by entities deemed ineligible will not be reviewed.
10. Applications with project dates that extend past June 30, 2019 (this period does not include the 90 days closeout period) will not be reviewed.

All technology grant recipients, including individuals and entities formed as for-profit entities, will be subject to the rules on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as found at 2 CFR part 200. See 2 CFR 200.101(a). Where the Secretary determines that 2 CFR part 200 is not applicable or where the Secretary determines that additional requirements are necessary due to the uniqueness of a situation, the Secretary will apply the same standard applicable to exceptions under 2 CFR 200.102.

IV. Application and Submission Information

A. Address To Request Application Package

Technology grant applicants may download the application package from www.*Grants.gov*. Questions regarding the application process should be referred to the program official: Bryant Lacey (Program Manager), Specially Adapted Housing Program, *Bryant.Lacey@va.gov*, (202) 632–8955 (This is not a toll-free number.)

B. Content and Form of Application Submission

The SAHAT Grant Program application package provided at *www.Grants.gov* (Funding Opportunity Number: VA–SAHAT–18–03) contains electronic versions of the application forms that are required. Additional attachments to satisfy the required application information may be provided; however, letters of support included with the application will not be reviewed. All technology grant applications must consist of the following:

1. *Standard Forms (SF) 424, 424A and 424B:* The SF–424, SF–424A, and SF–424B require general information about the applicant and proposed project. The project budget should be described in SF–424A. Please do not include leveraged resources in SF–424A.
2. *VA Form 26–0967:* Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.
3. *VA Form 26–0967a:* Scoring Criteria for SAH Assistive Technology Grants.
4. *Applications:* In addition to the forms listed above, each technology grant application must include the following information:
   a. A project description, including the goals and objectives of the project, what the project is expected to achieve, and how the project will benefit veterans and servicemembers.
   b. An estimated schedule including the length of time (not to extend past June 30, 2019) needed to accomplish tasks and objectives for the project.
   c. A description of what the project proposes to demonstrate and how this new technology will aid or enhance the ability of veterans and servicemembers to live in an adapted home. The following link has additional information regarding adapted homes: *http://www.benefits.va.gov/homeloans/adaptedhousing.asp.*
   d. Each technology grant applicant is responsible for ensuring that the application addresses each of the scoring criteria listed in Section V(A) of this notice.

C. Dun and Bradstreet Universal Numbering System (DUNS) and System for Award Management (SAM)

Each technology grant applicant, unless the applicant is an individual or Federal awarding agency that is excepted from these requirements under 2 CFR 25.110(b) or (c), or has an exception approved by VA under 2 CFR 25.110(d), is required to:

1. Be registered in SAM prior to submitting an application;
2. Provide a valid DUNS number in the application; and
3. Continue to maintain an active SAM registration with current information at all times during which the technology grant applicant has an active Federal award or an application under consideration by VA.

VA will not make an award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements, and if the applicant has not fully complied with the requirements by the time VA is ready to make an award, VA will determine the applicant is not qualified to receive a Federal award and will use this determination as a basis for making the award to another applicant.

D. Submission Dates and Times

Applications for the SAHAT Grant Program must be submitted via *www.Grants.gov* to be transmitted to VA by 11:59 p.m. Eastern Time on February 25, 2018. Submissions received after this application deadline will be

considered late and will not be reviewed or considered. Submissions via email, mail, or fax will not be accepted.

Applications submitted via *www.Grants.gov* must be submitted by an individual registered with *www.Grants.gov* and authorized to sign applications for Federal assistance. For more information and to complete the registration process, visit *www.Grants.gov*. Technology grant applicants are responsible for ensuring that the registration process does not hinder timely submission of the application.

It is the responsibility of grant applicants to ensure a complete application is submitted via *www.Grants.gov*. Applicants are encouraged to periodically review the ''Version History Tab'' of the funding opportunity announcement in *www.Grants.gov* to identify if any modifications have been made to the funding announcement and/or opportunity package. Upon initial download of the funding opportunity package, applicants will be asked to provide an email address that will allow *www.Grants.gov* to send the applicant an email message in the event this funding opportunity package is changed and/or republished on *www.Grants.gov* prior to the posted closing date.

E. Confidential Business Information

It is recommended that confidential business information (CBI) not be included in the application. However, if CBI is included in an application, applicants should clearly indicate which portion(s) of their application they are claiming as CBI. See 2 CFR 200.333–200.337 (addressing access to a non-Federal entity's records pertinent to a Federal award).

F. Intergovernmental Review

This section is not applicable to the SAHAT Grant Program.

G. Funding Restrictions

The SAHAT Grant Program does not allow reimbursement of pre-award costs.

V. Application Review Information

Each eligible proposal (based on the Section III threshold eligibility review) will be evaluated according to the criteria established by the Secretary and provided below in Section A.

A. Scoring Criteria

The Secretary will score technology grant applications based on the scoring criteria listed below. As indicated in Section I of this notice, the Secretary is placing the greatest emphasis on criteria 1 and 2. The establishment of priorities does not establish new scoring criteria but is designed to assist technology grant applicants in understanding how scores will be weighted. A technology grant application must receive a minimum aggregate score of 70. Instructions for completion of the scoring criteria are listed on VA Form 26–0967a. This form is included in the application package materials on *www.Grants.gov*. The scoring criteria and maximum points are as follows:

1. A description of how the new assistive technology is innovative (up to 50 points);
2. An explanation of how the new assistive technology will meet a specific, unmet need among eligible individuals (up to 50 points);
3. An explanation of how the new assistive technology is specifically designed to promote the ability of eligible individuals to live more independently (up to 30 points);
4. A description of the new assistive technology's concept, size, and scope (up to 30 points);
5. An implementation plan with major milestones for bringing the new assistive technology into production and to the market. Such milestones must be meaningful and achievable within a specific timeframe (up to 30 points); and
6. An explanation of what uniquely positions the technology grant applicant in the marketplace. This can include a focus on characteristics such as the economic reliability of the technology grant applicant, the technology grant applicant's status as a minority or veteran-owned business, or other characteristics that the technology grant applicant wants to include to show how it will help protect the interests of, or further the mission of, VA and the program (up to 20 points).

B. Review and Selection Process

Eligible applications will be evaluated by a five-person review panel comprised of VA employees. The review panel will score applications using the scoring criteria provided in Section V(A), with the greatest emphasis being placed on scoring criteria 1 and 2. The review panel will then rank those applications that receive a minimum aggregate score of 70 in order from highest to lowest. The delegated official will select the highest ranked application(s) based on, and subject to, the availability of funds.

VI. Award Administration Information

A. Award Notices

Although subject to change, the SAHAT Grant Program Office expects to announce grant recipients by April 1, 2018. Prior to executing any funding agreement, VA will contact successful applicants, make known the amount of proposed funding, and verify the applicant's desire to receive the funding. Any communication between the SAHAT Grant Program Office and successful applicants prior to the issuance of an award notice is not authorization to begin project activities. Once VA verifies that the grant applicant is still seeking funding, VA will issue a signed and dated award notice. The award notice will be sent by U.S. Mail to the organization listed on the SF–424.

All applicants will be notified by letter, sent by U.S. Mail to the address listed on the SF–424.

B. Administrative and National Policy Requirements

This section is not applicable to the SAHAT Grant Program.

C. Reporting

VA places great emphasis on the responsibility and accountability of grantees. Grantees must agree to cooperate with any Federal evaluation of the program and provide the following:

1. *Quarterly Progress Reports:* These reports will be submitted electronically and outline how grant funds were used, describe program progress, and describe any barriers and measurable outcomes. Grantees will utilize the Research Performance Progress Report for quarterly reporting purposes.
2. *Quarterly Financial Reports:* These reports will be submitted electronically using the SF–425—Federal Financial Report.
3. *Grantee Closeout Report:* This final report will be submitted electronically and will detail the assistive technology developed. The Closeout Report must be submitted to the SAHAT Grant Program Office not later than 11:59 p.m. Eastern Time, September 30, 2019.

VII. Agency Contact(s)

For additional general information about this announcement contact the program official: Bryant Lacey (Program Manager), Specially Adapted Housing Program, *Bryant.Lacey@va.gov.* (202) 632–8955 (This is not a toll-free number.)

Mailed correspondence, which should not include application material, should be sent to: Loan Guaranty Service, VA Central Office, Attn: Bryant Lacey (262), 810 Vermont Avenue NW, Washington, DC 20420.

All correspondence with VA concerning this announcement should reference the funding opportunity title and funding opportunity number listed at the top of this solicitation. Once the announcement deadline has passed, VA staff may not discuss this competition with applicants until the application review process has been completed.

VIII. Other Information

Section 2108 authorizes VA to provide grants for the development of

new assistive technologies through September 30, 2018. Additional information related to the SAH program administered by LGY is available at: *http://www.benefits.va.gov/homeloans/adaptedhousing.asp.*

The SAHAT Grant is not a veterans' benefit. As such, the decisions of the Secretary are final and not subject to the same appeal rights as decisions related to veterans' benefits. The Secretary does not have a duty to assist technology grant applicants in obtaining a grant.

Grantees will receive payments electronically through the U.S. Department of Health and Human Services Payment Management System.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Gina S. Farrisee, Deputy Chief of Staff, approved this document on January 23, 2018, for publication.

Dated: January 29, 2018.

Michael Shores,

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

[FR Doc. 2018–01988 Filed 1–31–18; 8:45 am]

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Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 301, 309, and 310

Modernization of Swine Slaughter Inspection; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 301, 309, and 310

[Docket No. FSIS–2016–0017]

RIN 0583–AD62

Modernization of Swine Slaughter Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to establish a new inspection system for market hog slaughter establishments that has been demonstrated to provide public health protection at least equivalent to the existing inspection system. Market hog slaughter establishments that do not choose to operate under the new swine inspection system may continue to operate under their existing inspection system. The Agency is also proposing several changes to the regulations that would affect all establishments that slaughter any swine, regardless of the inspection system under which they operate or the age, size, or class of swine. These proposed changes would allow all swine slaughter establishments to develop sampling plans that are more tailored to their specific operations, and thus be more effective in monitoring their specific process control. These proposed changes also would ensure that before the start of slaughter operations, food-contact surfaces are sanitary and free of enteric pathogens.

DATES: Comments must be received on or before April 2, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on this rule. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW, Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW, Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2016–0017. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW, Room 8–164, Washington, DC 20250–3700, between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Roberta Wagner, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Executive Summary

FSIS began experimenting with new approaches to slaughter inspection based on Hazard Analysis and Critical Control Point Systems (HACCP) principles shortly after publishing the Pathogen Reduction/HACCP rule in 1996. In 1997, the Agency developed the HACCP-Based Inspection Models Project (HIMP) study to determine whether applying new Government slaughter inspection procedures, along with new plant responsibilities, could promote innovation and provide at least the same food safety and consumer protection. FSIS initiated the HIMP study in 20 young chicken, five young turkey, and five market hog establishments on a waiver basis.

In 2014, the Agency amended the poultry products inspection regulations to establish a new optional inspection system for young chicken and all turkey slaughter establishments informed by the Agency's experiences under HIMP (79 FR 49566, August 21, 2014). The New Poultry Inspection System (NPIS) was designed to facilitate pathogen reduction in poultry products, improve the effectiveness of poultry slaughter inspection, make better use of the Agency's resources, and remove unnecessary regulatory obstacles to innovation. The risk model employed to assess the potential impact of the NPIS modeled scenarios involving an increase in targeted inspection activities (specifically unscheduled offline inspection activities). The results of this model, constructed on the assumption that the number of offline procedures performed in poultry establishments under the NPIS would increase proportionally to the number observed in HIMP establishments, suggested that implementing the NPIS would likely result in public health benefits, in the form of fewer poultry-associated foodborne *Salmonella* illnesses per year. Consistent with the underlying assumptions of the model, it is reasonable to conclude that inspection systems in which Agency resources are used to continue core online inspection activities while enhancing the frequency and focus of unscheduled offline activities directly related to food safety, such as HIMP and the NPIS, would likely result in a lower prevalence of carcasses contaminated with *Salmonella,* which in turn would likely lead to fewer human illnesses.

In addition to establishing the NPIS for young chickens and turkeys, FSIS also amended the poultry products inspection regulations that apply to all establishments that slaughter poultry other than ratites. The new requirements ensure that all poultry slaughter establishments implement appropriate measures in their HACCP plans, sanitation standard operating procedures (sanitation SOPs), or other prerequisite programs (hereafter referred to as their ''HACCP systems'') to prevent contamination of carcasses and parts by enteric pathogens and visible fecal material throughout the entire slaughter operation, and ensure that both FSIS and establishments have the documentation they need to verify the effectiveness of these measures on an ongoing basis.

FSIS is now proposing to amend the Federal meat inspection regulations to establish a new optional inspection system for market hog slaughter establishments, the New Swine Slaughter Inspection System (NSIS), informed by the Agency's experiences under HIMP. FSIS is proposing this new inspection system to facilitate pathogen reduction in pork products; improve compliance with the HMSA; improve the effectiveness of market hog slaughter inspection; make better use of the Agency's resources; and remove unnecessary regulatory obstacles to innovation by revoking maximum line speeds and allowing establishments flexibility to reconfigure evisceration lines. If establishment personnel sorted and removed unfit animals before ante-mortem inspection and trimmed and identified defects on carcasses and parts before post-mortem inspection by FSIS inspectors, FSIS inspectors would be presented with healthier animals and carcasses that have fewer defects to inspect, which would allow inspectors to conduct a more efficient and effective inspection of each animal and each

carcass. Such a system would allow FSIS inspectors to conduct a more efficient inspection. As a result, FSIS could assign fewer inspectors to online inspection, freeing up Agency resources to conduct more offline inspection activities that FSIS has determined are more effective in ensuring food safety, such as verifying compliance with sanitation, HACCP, and humane handling requirements.

Key elements of the proposed NSIS include: (1) Requiring establishment personnel to sort and remove unfit animals before ante-mortem inspection by FSIS and to trim and identify defects on carcasses and parts before post-mortem inspection by FSIS; (2) requiring establishment personnel to identify animals or carcasses that they have sorted and removed for disposal before FSIS inspection with a unique tag, tattoo, or similar device and immediately denature all major portions of the carcass on-site, and maintain records to document the total number of animals and carcasses sorted and removed per day; (3) requiring establishment personnel to immediately notify FSIS inspectors if they suspect an animal or carcass with a reportable or foreign animal disease (*e.g.,* African swine fever, classical swine fever, or Nipah virus encephalitis) while conducting sorting activities; (4) shifting Agency resources to conduct more offline inspection activities that are more effective in ensuring food safety, which would allow for up to two offline verification inspectors per line per shift and would reduce the number of online inspectors to a maximum of three per line per shift; (5) requiring establishments to maintain records documenting that products resulting from their slaughter operations meet the new proposed definition of Ready-to-cook (RTC) pork product, which would be defined as any slaughtered pork product free from bile, hair, scurf, dirt, hooves, toe nails, claws, bruises, edema, scabs, skin lesions, icterus, foreign material, and odor which is suitable for cooking without need of further processing; and (6) revoking maximum line speeds and authorizing establishments to determine their own line speeds based on their ability to maintain process control for preventing fecal contamination and meeting microbial performance measures during the slaughter operation. FSIS projects that the new system is unlikely to result in a higher prevalence of *Salmonella* on market hog carcasses and may even result in a lower prevalence of *Salmonella* on market hog carcasses, which in turn may lead to fewer human illnesses. In addition, the new system should improve animal welfare and compliance with the Humane Methods of Slaughter Act (HMSA) because more FSIS resources will be available to verify humane handling as an offline activity.

Under the proposed rule, market hog slaughter establishments that do not choose to operate under the NSIS may continue to operate under their existing inspection system (hereafter referred to as ''traditional inspection''). As mentioned above, NSIS provides public health protection at least equivalent to traditional inspection. FSIS recognizes that some establishments may not be prepared to make the investment in facilities and labor needed to convert to NSIS. In addition, many small, very low volume establishments slaughter more than one type of livestock species and the facilities updates need to convert to the proposed NSIS may not accommodate the slaughter of livestock other than market hogs. Therefore, FSIS is proposing to give establishments the flexibility to operate under the system that is best suited to their operations.

FSIS is also proposing several changes that would affect all establishments that slaughter swine, regardless of the inspection system under which they operate. FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent the contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk throughout the entire slaughter and dressing operation. These procedures must include sampling and analysis for microbial organisms to monitor process control for enteric pathogens, as well as written procedures to prevent visible fecal material, ingesta, and milk contamination.

FSIS is proposing to prescribe a minimum frequency with which establishments would be required to collect two samples, one at pre-evisceration and one at post-chill (*i.e.,* the point in the slaughter process after the carcass has chilled in the cooler and after all slaughter interventions are completed), or, for very small and very low volume establishments, a single post-chill sample. FSIS considers the microbial load of hog carcasses at pre-evisceration to be a valuable source of data about how well an establishment is taking into account the sanitary condition of live hogs coming to slaughter and the processing steps (*i.e.,* washing, dehairing) they implement to reduce the external contamination of the carcass prior to evisceration. FSIS also considers the microbial characteristics of hog carcasses post-chill (after all processing steps have taken place) to be a valuable source of data about how well an establishment is minimizing contamination during chilling as well as the overall effectiveness of all process control interventions the establishment has chosen to apply throughout its production process. Because most establishments apply one or more interventions between the pre-evisceration and post-chill sampling points to help control microbiological hazards, FSIS would expect that a reduction in microbiological contamination between these two sampling points to be an indication of the effectiveness of those controls.

Under the proposed rule, establishments, except for very small and very low volume establishments, would be required to collect pre-evisceration and post chill samples at a frequency of once per 1,000 carcasses. Very small and very low volume establishments would be required to collect at least one sample during each week of operation each year. If, after consecutively collecting 13 weekly samples, very small and very low volume establishments can demonstrate that they are effectively maintaining process control, they can modify their sampling plans to collect samples less frequently. FSIS is proposing to allow very small and very low volume establishments to collect and analyze samples for microbial organisms at the post-chill point in the process only because these establishments typically are less automated and run at slower line speeds than larger establishments. The lower level of automation and the slower line speeds require less complicated measures for maintaining and monitoring process control on an ongoing basis. These proposed frequencies reflect the frequencies prescribed under the existing regulations for generic *Escherichia coli* (*E. coli*) testing. FSIS is proposing to remove the current requirement that swine establishments test carcasses for generic *E. coli* to monitor process control and to remove the codified *Salmonella* pathogen reduction performance standards for swine and replace them with the new testing requirements described above. The new testing requirements would allow establishments to develop sampling plans that are more tailored to the specific establishment, and thus more effective in monitoring their specific process control than the current generic *E. coli* criteria.

FSIS is proposing to allow establishments to substitute alternative sampling locations if they are able to

demonstrate that the alternative sampling locations are able to provide a definite improvement in monitoring process control than at pre-evisceration and post-chill. FSIS interprets ''definite improvement'' to mean *any* improvement of equipment, substances, methods, processes, or procedures affecting the slaughter of livestock and poultry or processing of meat, poultry, or egg products. FSIS is also proposing to allow establishments to substitute alternative sampling frequencies if they are able to demonstrate that the alternative is an integral part of the establishments' verification procedures for their HACCP plans and are able to provide a definite improvement in monitoring process control than at the prescribed frequency. FSIS is requesting comments on the proposed sampling requirements, particularly the incremental value (from both a process-improvement and public health standpoint) of pre-evisceration sampling over what is provided by post-chill sampling.

Finally, FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent contamination of the pre-operational environment by enteric pathogens. The pre-operational environment comprises food contact surfaces, reuse water, and equipment, including knives, in edible food production departments before slaughter operations begin. These procedures would need to include sampling and analysis of food-contact surfaces in the pre-operational environment for microbial organisms to ensure that the surfaces are sanitary and free of enteric pathogens. The sampling frequency would need to be adequate to monitor the establishment's ability to maintain sanitary conditions in the pre-operational environment. Please see the draft compliance guide for additional information about implementation of this provision. FSIS is proposing this requirement as a direct result of a recent outbreak of foodborne illness associated with a hog slaughter establishment where food contact surfaces were found to be contaminated with the outbreak strain. FSIS is requesting comments on this proposed sampling requirement and the extent to which interventions in the pre-operational environment are needed to ensure food safety.

In Table 1 below, FSIS presents the estimated costs and benefits of the proposed rule. Later portions of the regulatory impact analysis section contain explanation of the assumptions, alternative adoption scenarios, and a discussion of the uncertainty surrounding the net benefits associated with how much of the industry would choose to adopt NSIS.

TABLE 1—NET COSTS AND (BENEFITS)

[M$]

	Number of establishments	One-time	Recurring
Costs To Industry		$3.88	$22.65
Voluntary *	** 40	0.84	22.17
Mandatory	612	3.03	0.48
Potential Health Benefits ***			(9.33)
Industrial Efficiency			(47.33)
Impacts to Agency's Budget		2.80	(8.73)
Totals:			
One-Time Cost			$6.68
Recurring Cost			(42.75)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			(31.77)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			(30.40)

* Further explanation and details on the NSIS adoption rate are provided in section G. Expected Cost of the Proposed Rule, Table 6: NSIS Adoption Rate and section J. Net Benefits, Table 28: Quantified Cost and (Benefits) of Various Adoption Rates.

** Note, this includes 5 HIMP establishments, which are not expected to incur any costs or benefits associated with the NSIS.

*** Further explanation and details on the range of health benefits have been provided in section H. Expected Benefits Associated With Public Health, Table 20: Health Benefits from Averted Cases of *Salmonella.* The value of health benefits ranges from $0.19 million to $18.97 million, with a mean of $9.33 million.

Statutory Authority

FSIS inspects and regulates the production of meat and meat food products prepared for distribution in commerce under the authority of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*). The FMIA provides that the Secretary shall cause to be made by inspectors an examination and inspection of all amenable species before they enter into any establishment in which they are to be slaughtered and the meat and meat food products thereof are to be used in commerce (21 U.S.C. 603(a)). All amenable species found to show symptoms of disease are to be set apart and slaughtered separately; the carcasses of such animals are to be subject to a careful inspection (21 U.S.C. 603(a)). The FMIA requires that the livestock be slaughtered and handled in connection with slaughter in a manner that is consistent with the HMSA (21 U.S.C. 603(b)). Under the HMSA, the handling of livestock in connection with slaughter must be carried out only by humane methods (7 U.S.C. 1902).

The FMIA also requires inspectors to conduct a post-mortem examination and inspection, and any necessary reinspection, of carcasses and parts of amenable species prepared for human food (21 U.S.C. 604). The FMIA requires that all carcasses and parts found to be adulterated be condemned (21 U.S.C. 604). Under the FMIA, a meat or meat food product is adulterated, among other circumstances, if it bears or contains any poisonous or deleterious substance that may render it injurious to health; it is unhealthful, unwholesome, or otherwise unfit for human consumption; it was prepared, packaged, or held under insanitary conditions whereby it may have been rendered injurious to health; or if damage or inferiority has been concealed in any manner (21 U.S.C. 601(m)(1), (3), (4), and (8)). Finally, 21 U.S.C. 621 provides that the Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of the FMIA. FSIS regulations and inspection programs are designed to verify that livestock are handled and slaughtered humanely, and that meat and meat food products are

unadulterated, wholesome, and properly marked, labeled, and packaged.

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I. Background

A. Traditional Market Hog Slaughter Inspection Under Existing Regulations

1. Description of the Inspection System Under Existing Regulations

Under the existing regulations for traditional inspection, FSIS ante-mortem inspectors examine all market hogs for visible signs of condemnable diseases or conditions while they are at rest and in motion (see 9 CFR part 309). FSIS ante-mortem inspectors direct establishment personnel to set apart animals showing signs of condemnable diseases or conditions into separate ''U.S. Suspect'' pens for further examination by the FSIS Public Health Veterinarian (PHV). The FSIS PHV determines whether the animals shall be identified as ''U.S. Condemned'' and disposed of in accordance with 9 CFR 309.13 (9 CFR 309.2).

Most establishments under traditional inspection that slaughter only market hogs voluntarily segregate animals that show signs of diseases or conditions from healthy animals before the Agency performs ante-mortem inspection (see FSIS Directive 6100.1, *Ante-mortem Livestock Inspection* available at *http://www.fsis.usda.gov/wps/wcm/connect/2b2e7adc-961e-4b1d-b593-7dc5a0263504/6100.1.pdf?MOD=AJPERES*). Market hog establishment personnel segregate animals that appear to be normal and healthy from abnormal or unhealthy animals that appear to have condemnable diseases or conditions (*e.g.,* animals exhibiting signs of neurologic conditions, pyrexia, or severe lameness) into ''subject'' pens, where they are subject to additional FSIS inspection. FSIS requires these establishments to document their segregation procedures in their HACCP plans or prerequisite programs. FSIS inspectors examine all animals found by the establishment to be normal at rest, and five to ten percent of those animals in motion. If any animals exhibit signs of condemnable conditions, FSIS inspectors direct establishment employees to move the animals to the ''U.S. Suspect'' pens for final disposition by the FSIS PHV. The FSIS PHV examines all animals in the ''subject'' pens, and directs establishment employees to move animals to ''U.S. Suspect'' pens for final disposition. FSIS inspectors observe establishment employees performing segregation procedures at least once per month. Because establishment employees are responsible for identifying and removing market hogs that are not fit for slaughter before FSIS ante-mortem inspection, FSIS inspectors are presented with healthier animals that are more likely to pass inspection. Therefore, under the voluntary segregation procedures, FSIS inspectors are able to conduct a more efficient and effective ante-mortem inspection to determine whether each animal is fit for slaughter.

During post-mortem inspection at all market hog slaughter establishments, FSIS online inspectors inspect the head, viscera, and carcass of each animal for localized defects and direct establishment employees to remove the defects through trimming (9 CFR 310.1(b)(3)). FSIS online inspectors perform manual incisions, palpations, and other organoleptic inspections (*i.e.,* using sight, smell, and touch) to detect signs of disease or contamination. In large establishments, up to seven online inspectors are assigned per line per shift to cover inspection stations for the head, viscera, and carcass at fixed points along the slaughter and evisceration line. In small or very small establishments, one inspector may perform all of the post-mortem

inspection procedures on each animal. FSIS online inspectors identify and retain carcasses and parts with visible animal diseases and conditions. The FSIS PHV thoroughly examines retained carcasses and parts to determine whether they should be condemned; establishment personnel then dispose of condemned carcasses under FSIS supervision in accordance with 9 CFR part 314.

Under the existing regulations for traditional inspection, establishments conduct no post-mortem carcass sorting to identify which carcasses and parts appear eligible to bear the mark of inspection, which carcasses and parts contain removable defects correctable through trimming, and which carcasses and parts should be submitted to FSIS for condemnation because of generalized diseases or conditions. These sorting functions are conducted by establishment personnel under HIMP. Rather, the existing regulations for traditional inspection require establishments to assign competent assistants to take such actions as directed by FSIS online inspectors after the inspectors have conducted the initial sorting activities (see 9 CFR 307.2(g)). Therefore, under the existing regulations for traditional inspection, establishments rely on FSIS online inspectors to effectively control and direct their processing. Moreover, because FSIS online inspectors are responsible for identifying unacceptable carcasses and parts, it takes online inspectors more time to conduct a carcass-by-carcass inspection than would be necessary if establishments sorted carcasses and parts, trimmed dressing defects and contamination that do not impact the FSIS inspectors' ability to assess the fitness of the carcass or part, and identified pathology defects, before the carcasses and parts were inspected.

More FSIS resources also could be devoted to offline inspection activities if initial sorting and tagging functions were performed by establishment personnel. Under the existing regulations, only FSIS inspectors may direct the application and removal of ''U.S. Condemned'' tags from animals and carcasses condemned by FSIS inspectors on ante-mortem and post-mortem inspection (9 CFR 309.13 and 310.5). The tag must remain on the carcass until it goes into the tank, or the carcass is otherwise disposed of in accordance with 9 CFR part 314. Establishments are required to denature condemned carcasses and parts if they do not have tanking facilities and the carcasses and parts are to be rendered or otherwise disposed of off-site (see 9 CFR 314.3). FSIS inspectors enter the number on each ''U.S. Condemned'' tag into the Public Health Information System (PHIS). Under the existing regulations, most ''U.S. Condemned'' tags are applied during ante-mortem inspection to animals that arrive dead. Because FSIS inspectors are responsible for removing all of the ''U.S. Condemned'' tags and documenting each ''U.S. Condemned'' tag number into PHIS, it takes inspectors more time to complete ante-mortem and post-mortem inspections than it would if establishments sorted and removed these animals before FSIS inspection and maintained records that could be verified by FSIS, as appropriate, and reported their daily totals to FSIS inspectors.

In addition to the post-mortem inspection activities conducted by online inspectors, offline inspectors conduct additional food safety related activities such as verifying that establishments' processing meets their HACCP critical limits and verifying whether sanitation SOPs are effective.

2. Need for Modernization

Modernization of market hog slaughter inspection is necessary because traditional inspection was developed before FSIS issued its HACCP regulations, and before the Agency began targeting its resources to address public health risks associated with foodborne pathogens. Traditional inspection obscures the proper roles of industry and inspection personnel by assigning to FSIS inspectors responsibility for sorting acceptable animals from unacceptable animals, finding carcass defects, identifying production control problems for the establishment, and verifying corrective actions in addition to determining whether the carcasses meet regulatory requirements. Additionally, traditional inspection requires FSIS to allocate significant inspection personnel resources towards online inspection activities in large and high volume market hog establishments to detect quality defects and conditions that present minimal food safety risks, thus limiting the resources available for offline inspection activities such as verifying the effectiveness of HACCP plans and sanitation SOPs. FSIS has concluded, based on the Agency's analysis of the market hog HIMP pilot (discussed in more detail below), conducting more offline activities will be more effective in ensuring food safety and humane handling verification tasks.

Traditional inspection requires inspectors to conduct time-intensive ante-mortem and post-mortem sorting activities. This necessitates FSIS to allocate significant personnel resources to conduct activities that are more appropriately the responsibility of the establishment. As a result, traditional inspection limits line speeds, even if establishments can demonstrate that they are able to produce safe, unadulterated, wholesome products at more efficient rates. It also limits large and high volume market hog slaughter establishments' incentive to improve their processing methods and to develop more efficient slaughter and dressing technologies.

For example, under traditional inspection, the maximum line speed authorized for slaughter lines with one or two inspectors is partially based upon the distance walked (in feet) by the inspector between work stations to conduct the sorting activities mentioned above (see 9 CFR 310.1(b)(3)). For slaughter lines with three or more inspectors, line speeds may also depend on whether FSIS online inspectors observe the back of the carcasses by looking in a mirror or whether they must turn the carcass to observe the back of the carcass (see 9 CFR 310.1(b)(3)). The maximum line speed under the existing regulations for market hogs is 1,106 head per hour (hph) with seven online inspectors. Establishments determine their line speeds based on their equipment, size and condition of the animals, and their ability to maintain process control when operating at a given line speed.

Additionally, traditional inspection restricts establishments' ability to reconfigure and consolidate lines if they determine that they need more space to conduct other activities in their facilities. For example, establishments slaughtering 1,025 market hogs per hour must configure their evisceration lines to accommodate three online head inspectors, three online viscera inspectors, and one online carcass inspector. The regulations require that establishments provide an inspection station consisting of five feet of unobstructed line space for each head or carcass inspector and, for viscera table kills, eight feet for each viscera inspector on the inspector's side of the table (9 CFR 307.2 (m)(1)). As a result, the current regulations for traditional inspection prevent large and high volume market hog slaughter establishments from consolidating inspection stations or otherwise reconfiguring their evisceration lines in order to make room for more innovative, automated equipment such as head dropping equipment, bung equipment (which separates digestive and urinary organs from pelvic attachments),

eviscerating equipment, and back saws. Traditional inspection is generally sufficient for low volume establishments and for establishments that slaughter classes of swine other than market hogs because these establishments typically are less automated and run at slower line speeds than larger establishments.

Additionally, traditional inspection was developed when visually detectable animal diseases such as pneumonias, erysipelas, hog cholera, cystercercosis, parasites, and arthritis were more prevalent and considered to be more of a concern than they are today. The line speed limits prescribed under traditional inspection reflect the Agency's previous focus on the detection of visible defects and animal diseases and do not give establishments the flexibility to address these conditions before presenting the carcasses and parts to FSIS inspectors.

Traditional inspection focuses substantial FSIS resources on detecting visible trim and dressing defects that are not directly related to food safety, particularly in light of what is now known about the role microbial contamination plays in causing foodborne human illness. The traditional inspection model needs to be updated in light of the significant advances that have been made in the control or eradication of many animal diseases that were more prevalent and were considered to present a greater concern when the existing inspection systems were designed, particularly in generally healthy classes of animals such as market hogs.

Moreover, the analysis in FSIS's ''Assessment of the Potential Change in Human Health Risk Associated with Modernizing Inspection of Market Hog Slaughter Establishments'' (hereafter referred to as the market hog risk assessment) conducted by FSIS suggests a statistically significant correlation between increased scheduled and unscheduled offline inspection procedures and a reduction in the prevalence of *Salmonella* in market hog establishments. Projecting out illness reductions based on reduction in *Salmonella* prevalence in 35 plants results in wide uncertainty, but the model confidently estimates that the level of protection from *Salmonella* illnesses would be at least as good as the current system. Based on these results, the redeployment of Agency resources dedicated to online inspection under the traditional inspection system to unscheduled offline activities, such as increased HACCP and sanitation SOP verification, has the potential to contribute to improved food safety resulting from a lower prevalence of carcasses contaminated with *Salmonella,* which may in turn lead to fewer human illnesses. While prevalence of *Salmonella* measured in FSIS's market hog baseline study is low, *Salmonella* is a pathogen of public health concern for pork products, and the data available are adequate to estimate the potential changes in prevalence with changes in FSIS's swine inspection system.

B. Regulations for Microbiological Testing Under Traditional Inspection

1. Generic E. Coli Criteria for Measuring Process Control

The existing regulations require that official swine slaughter establishments conduct regular testing for generic *E. coli* at the end of the chilling process or after the final wash as a means to verify process control (9 CFR 310.25(a)(1)). These regulations prescribe requirements for collecting the samples, obtaining analytical results, and maintaining records of such results (9 CFR 310.25(a)(2), (3), and (4)). They also include criteria for evaluating an establishment's generic *E. coli* testing results (9 CFR 310.25(a)(5)). The regulations provide that generic *E. coli* testing results that do not meet the criteria described in the regulations indicate that the establishment may not be maintaining process controls sufficient to prevent fecal contamination (9 CFR 310.25(a)(6)). If an establishment is not meeting the *E. coli* test results criteria, the regulations state that FSIS will take further action as appropriate to ensure that all applicable provisions of the law are being met (9 CFR 310.25(a)(6)).

In 2014, FSIS rescinded the regulations that required that poultry establishments test carcasses for generic *E. coli* to monitor for process control (79 FR 49565, August 21, 2014). The final regulations replaced the generic *E. coli* regulations with new testing requirements that allow establishments to develop sampling plans that are more tailored to the specific establishment, and thus are more effective in monitoring their specific process control than the former generic *E. coli* criteria. The Agency concluded that the use of generic *E. coli* as an indicator for process control may not be as useful in certain poultry slaughter operations as originally thought. Therefore, FSIS made the change to allow poultry establishments to use other more relevant indicators of process control.

The Agency is aware that most swine slaughter establishments currently conduct additional sampling for micro-organisms other than generic *E. coli* (*e.g., Salmonella* spp. and aerobic plate count bacteria (APC)) because they have found these organisms to be more relevant indicators of their process control. Therefore, FSIS is proposing to remove the generic *E. coli* sampling requirements for swine slaughter establishments to give establishments more flexibility in monitoring their process control and to make the Federal meat inspection regulations more consistent with the Federal poultry products inspection regulations. FSIS is proposing that all swine slaughter establishments collect and analyze carcass samples for microbiological analysis at the pre-evisceration and post-chill points in the process. The discussion of the proposed testing requirements is set out later in this document.

2. Salmonella Pathogen Reduction/ HACCP Performance Standards

In addition to generic *E. coli* criteria, the existing regulations contain *Salmonella* pathogen reduction performance standards for market hogs (9 CFR 310.25(b)). The codified performance standards are based on the prevalence of *Salmonella* found by two nationwide microbiological baseline surveys conducted from April 1995 to March 1996 and from June 1997 to May 1998. The regulations provide for FSIS to collect and analyze unannounced *Salmonella* samples sets in swine slaughter establishments to detect whether these establishments are meeting the pathogen reduction performance standards (9 CFR 310.25(b)(2)). The performance standards set a maximum number of *Salmonella*-positive samples allowable per sample set and are defined on a product class basis so that an establishment operating at the baseline level would have an 80 percent chance of meeting the standard. Establishments are required to take corrective actions when FSIS determines that they are not meeting the performance standards (9 CFR 310.25(b)(3)(i) and (ii)).

Under the regulations, an establishment's failure to take the corrective actions necessary to comply with the *Salmonella* performance standards, or an establishment's failure to meet the standards on the third consecutive series of FSIS-conducted tests for that product, constitutes a failure to maintain sanitary conditions and to maintain an adequate HACCP plan (9 CFR 310.25(b)(3)(iii)). The regulations provide that such failure will cause FSIS to suspend inspection services (9 CFR 310.25(b)(3)(iii)). However, the Agency's ability to

directly enforce the pathogen reduction performance standards has been limited since 2001, after a ruling by the U.S. Court of Appeals for the Fifth Circuit in *Supreme Beef Processors, Inc.* v. *USDA.* In that case, the court enjoined FSIS from suspending inspection services against a meat grinding operation for failure to meet the *Salmonella* performance standards. Since that time, FSIS has used *Salmonella* failures as a basis to conduct an in-depth evaluation of the establishment's HACCP systems, including its HACCP plan and sanitation SOPs.

From August 2010 to August 2011, FSIS conducted a third market hog baseline survey to estimate the national prevalence of *Salmonella* in market hogs (*The Nationwide Microbiological Baseline Data Collection Program: Market Hogs Survey August 2010–2011* available at *http://www.fsis.usda.gov/wps/wcm/connect/d5c7c1d6-09b5-4dcc-93ae-f3e67ff045bb/Baseline_Data_Market_Hogs_2010-2011.pdf?MOD=AJPERES*). The third market hog baseline survey included 253 establishments that produce approximately 99.9 percent of market hogs slaughtered in the United States. For the third baseline survey, FSIS collected samples in 152 random establishments from market hog carcasses at two points in the slaughter process: Pre-evisceration and post-chill. The *Salmonella* percent positive rate at pre-evisceration was 69.64 percent, but at post-chill it was reduced to 2.70 percent. The third baseline survey's percent positive rate at post-chill was significantly lower than the rates found in the two earlier surveys mentioned above, which reported *Salmonella* percent positive rates of 8.7 percent and 6.9 percent, respectively. Based on the data from the third baseline survey, FSIS estimated prevalence of *Salmonella* in market hogs was 1.66 percent with a 95 percent confidence interval between 0.82 percent and 2.51 percent. Because the estimated prevalence of *Salmonella* was low, and FSIS did not find enough pathogen positives to justify the resources needed (*e.g.,* time and supplies) to conduct carcass swabbing, the Agency determined that this type of sampling was not an effective use of resources for verifying process control. As a result, FSIS did not develop new *Salmonella* performance standards for market hogs. Rather, in September 2011, FSIS discontinued its *Salmonella* verification sampling program for market hogs to make better use of its resources.

Therefore, FSIS is proposing to eliminate the pathogen performance standards for market hogs in 9 CFR 310.25(b) because verifying the codified standards was not a good use of Agency resources and the standards have not been used since 2011. Instead, FSIS has decided to focus on its resources on sampling raw pork parts for pathogens of public health concern, as well as for indicator organisms.

FSIS is currently addressing *Salmonella* through the *Salmonella* Initiative Program (SIP) described below. In addition, FSIS has published a compliance guideline to help official establishments control and reduce the spread of *Salmonella* in hog slaughter facilities (79 FR 633, January 6, 2014). The guidance is available on the FSIS web page at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index.* The guidance provides information on best practices that may be applied at a hog slaughter facility to prevent, eliminate, or reduce levels of *Salmonella* on hogs at all stages of slaughter and dressing. Importantly, FSIS has identified microbial performance measures, as guidance, at the pre-evisceration and post chill points.

Moreover, FSIS is currently conducting exploratory sampling of raw pork products for pathogens of public health concern, as well as for indicator organisms (80 FR 12618). A summary of the Phase I positive sampling results collected from May 2015 to November 2015 are as follows: 16.7 percent *Salmonella,* 1 percent *Campylobacter,* 4.5 percent Methicillin-Resistant Staphylococ*cus aureus* (MRSA), 1 percent *Toxoplasma gondii,* 1.5 percent *Yersinia enterocolitica,* 0 percent *E. coli* O157:H7, and 5 percent non-O157 shiga toxin-producing *E. coli* (non-O157 STEC). FSIS has posted more detailed sampling results on its website at *https://www.fsis.usda.gov/wps/wcm/connect/68f5f6f2-9863-41a5-a5c4-25cc6470c09f/Sampling-Project-Results-Data.pdf?MOD=AJPERES.* The Agency may develop pathogen reduction performance standards for pork parts at a later date. In 2019, the Agency will use this data to determine whether standards or additional policies (*e.g.,* training, guidance to industry, or instructions to field personnel) are needed to address *Salmonella* in pork products.

C. Waivers of Regulatory Requirements

1. Waivers To Test New Technology

The regulations in 9 CFR 303.2(h) and 381.3(b) provide for the Administrator to waive for limited periods any provisions of the regulations to permit experimentation so that new procedures, equipment, or processing techniques may be tested to facilitate definite improvements. Under these regulations, FSIS may only grant waivers from the provisions in the regulations that are not in conflict with the purposes or provisions of the FMIA or PPIA (9 CFR 303.1(h) and 381.3(b)).

FSIS decides whether to grant requests for waivers based on proposals and documentation submitted by establishments to demonstrate that the use of a new technology is scientifically sound; that it will facilitate definite improvements; and that issuing the waiver will not conflict with the provisions of the FMIA or PPIA.[1] If FSIS determines that the information submitted by an establishment supports the requested waiver, the Agency will waive the appropriate provisions in the regulation for a limited period of time to allow the establishment to conduct an in-plant trial. The purpose of the in-plant trial is to gather data on the effects of the use of the new technology. FSIS reviews the data that is developed in the trial to determine whether they establish that the purpose of the waiver is being met.

2. Salmonella Initiative Program Waivers

Under SIP, the Agency grants meat and poultry slaughter establishments waivers of regulatory requirements on condition that they will conduct regular microbial testing and share the resulting data with FSIS. The Agency described preliminary details of SIP in a January 28, 2008, **Federal Register** notice (73 FR 4767–4774) and announced its final terms and conditions in the July 13, 2011, **Federal Register** notice (76 FR 41186). SIP benefits public health in that it encourages slaughter establishments to conduct testing for microbial pathogens, which is a key feature of effective process control, and to respond to testing results by taking steps when necessary to regain process control. In addition, SIP enables FSIS to use establishment data to inform Agency policy aimed at enhancing public health protection.

SIP establishments test for *Salmonella, Campylobacter* (if applicable), and generic *E. coli* or other indicator organisms and share all sample results with FSIS. Establishments that had been operating under regulatory waivers before FSIS implemented the SIP were required to participate in SIP or forfeit their waivers. The list of establishments

[1] For Agency New Technology waiver procedures, see *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/New-Technologies.*

participating in SIP is available on FSIS's website at *https://www.fsis.usda.gov/wps/wcm/connect/188bf583-45c9-4837-9205-37e0eb1ba243/Waiver_Table.pdf?MOD=AJPERES.* To date the regulations waived for swine slaughter establishments under SIP include: 9 CFR 310.1(b)(3)— line speed; 9 CFR 310.25(a)— generic *E. coli* testing [2]; 9 CFR 310.25(b)—*Salmonella* performance standards; 9 CFR 310.18(a)— contamination of organs; 9 CFR 310.11—cleaning and hair removal; and 9 CFR 310.14—handling of bruised parts. All swine slaughter establishments operating under SIP waivers will continue to operate under waivers and will continue to conduct testing under SIP if their waivers are not addressed in the final rule resulting from this proposal. If their waivers are addressed in the final rule resulting from this proposal, their waivers will end.

II. Consideration of Need for a New Swine Slaughter Inspection System

A. Early Development of the Inspection Models Program

In 1996, FSIS published its Pathogen Reduction/HACCP (PR/HACCP) final rule as the first step of a comprehensive initiative to target the Agency's resources to address the public health risks associated with foodborne pathogens, which cannot be detected by organoleptic inspection (61 FR 38868, July 25, 1996). Under FSIS's PR/HACCP regulations, establishments are required to develop and implement a system of preventive controls to ensure that their products are safe. This approach gives establishments more flexibility to determine how they can best meet the Agency's regulatory requirements. FSIS verifies the adequacy and effectiveness of establishments' HACCP systems.

In 1997, in order to improve food safety and the effectiveness of inspection systems, reduce the risk of foodborne illness in the United States, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources, FSIS announced, in a **Federal Register** notice, that the Agency would be developing a new HIMP study (62 FR 31553, June 10, 1997). During the HIMP study, FSIS would design and test various new inspection models in a series of trials in volunteer meat and poultry slaughter establishments.

Under the initial HIMP inspection models approach, establishment personnel were responsible for sorting and removing animals unfit for slaughter and identifying and removing abnormal carcasses and parts, and FSIS inspection personnel performed inspection activities that focused on the areas of greatest risk in the hog slaughter inspection system in each establishment.

In 1998, the American Federation of Government Employees, several FSIS inspectors, and a public interest organization filed suit to enjoin FSIS from implementing the HIMP model. The plaintiffs alleged that HIMP violated the requirement in the FMIA that government inspectors conduct a post-mortem inspection of each carcass. Specifically, the FMIA provides that the Secretary shall cause to be made by inspectors a post-mortem inspection of the carcasses and parts thereof of all amenable species to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment (21 U.S.C. 604). The district court upheld HIMP, finding that the word ''inspection'', as used in the statute, does not necessarily mandate a direct, physical examination of each carcass by an FSIS inspector, and that the model program was a rational policy judgment within the discretion afforded to the Secretary.

The plaintiffs appealed, and the Court of Appeals for the District of Columbia Circuit reversed the district court's decision. The Court of Appeals found that the FMIA requires Federal inspectors—rather than plant employees—to make the decision whether each carcass is adulterated within the meaning of the statute (*AFGE* v. *Glickman,* 215 F.3d 7, 11 (D.C. Circ. 2000)). The case was remanded to the district court for further proceedings.

In response to the Court of Appeals' opinion, FSIS modified HIMP to position up to three [3] online inspectors at fixed locations along the slaughter lines: In the area where the carcass and head were separated; where the carcass and viscera were separated; and at the pre-wash carcass verification location. These inspectors were responsible for examining the head, viscera, and carcass of each hog. The modified models project also included FSIS offline inspectors who were responsible for conducting HACCP and sanitation system verification activities and for closely examining a sample of carcasses for food safety defects to ensure that the establishment's process was under control and that adulterated carcasses and parts were not getting past the establishment sorters. On remand, the district court found that HIMP, as modified, complied with both the applicable statutory provisions and the opinion issued by the Court of Appeals.

The plaintiffs again appealed to the Court of Appeals for the D.C. Circuit. The plaintiffs argued that the modified inspection procedures were not in compliance with the Court of Appeals' prior opinion because FSIS had delegated some inspection duties to plant employees who were responsible for sorting defective carcasses and making preliminary decisions regarding adulteration. The Court of Appeals rejected this argument, finding that the FMIA does not prohibit plant employees from paring down the overall number of carcasses by sorting and removing carcasses before they reach the Federal inspector (*AFGE* v. *Veneman,* 284 F.3d 125, 131 (D.C. Cir. 2002)). The Court held that the modified inspection model program satisfied the FMIA because it required Federal inspectors to personally examine all hog carcasses, heads, and viscera, as required by 21 U.S.C. 604.

The plaintiffs also argued that the line speeds allowed in the HIMP plants were too fast to allow Federal inspectors to make a critical appraisal of each carcass. The Court found that FSIS's decision to allow higher line speeds was reasonable in light of the fact that establishment employees are required to sort carcasses and parts and identify defects prior to Federal inspection, resulting in fewer adulterated carcasses and parts being presented for Federal inspection. The Court also noted that although the FMIA delineates what must be inspected and by whom, it does not define exactly what constitutes an inspection. The court concluded that HIMP, as modified, reflected a reasonable design of an inspection system by the agency charged with responsibility for administering the FMIA and that it would rely on the Agency's experience and informed judgment in evaluating the validity of the system under the law. Under these circumstances, the Court of Appeals upheld HIMP, as modified.

B. Existing HACCP-Based Inspection Models Program

The revised HIMP study was initiated in five market hog slaughter establishments on a waiver basis.

Similar to the voluntary segregation procedures described above in establishments that slaughter only

[2] Some establishments continue to sample for generic *e. coli* to monitor their process control. The SIP waivers allow these establishments to use alternative sampling locations and frequencies.

[3] FSIS is able to assign fewer than three online inspectors if the physical configuration of the slaughter line allows one inspector to inspect both the head and viscera or the viscera and carcass. For example, in one establishment, the chain that carries the carcass is adjacent to the viscera pans, which enables one inspector to examine both the carcass and viscera.

market hogs under traditional inspection, establishment personnel sort animals before they are presented to FSIS ante-mortem inspectors under HIMP. Establishment personnel sort animals that appear to be healthy into ''Normal'' pens and animals that appear to have condemnable diseases or conditions into ''Subject'' pens. Establishment personnel remove and dispose of dead and moribund animals and animals suspected of having central nervous system disorders (CNS) or pyrexia. Under HIMP, FSIS inspectors examine all animals found by the establishment to be normal at rest, and five to ten percent of those animals in motion. If any animals exhibit signs of condemnable conditions, FSIS inspectors direct establishment employees to move the animals to the ''U.S. Suspect'' pens for final disposition by the FSIS PHV. FSIS PHVs examine all animals in the establishment's ''Subject'' pens, and direct establishment employees to move animals to ''U.S. Suspect'' pens for final disposition by the FSIS PHV. The FSIS PHV determines if any animals must be identified as ''U.S. Condemned'' and disposed of in accordance with 9 CFR 309.13 (9 CFR 309.2). While establishment personnel sort and remove animals unfit for slaughter, only FSIS inspectors have the authority to condemn an animal. FSIS inspectors observe establishment employees performing sorting procedures at least twice per shift under HIMP compared to at least once per month under the voluntary segregation procedures permitted under traditional inspection of market hogs.

Under HIMP, post-mortem inspection is conducted by up to three online inspectors who visually inspect the head, viscera, and carcass of each hog at fixed locations on the evisceration line. Before FSIS online inspection, establishment personnel sort carcasses and parts and trim dressing defects and contamination (*e.g.,* hair, bruises, feces, ingesta, and milk). Establishment employees also mark with ink localized pathology defects intended for removal under FSIS supervision (*e.g.* localized nephritis and localized arthritis) and carcasses and parts intended for disposal under FSIS supervision (*e.g.,* carcasses and parts with malignant lymphoma). Online inspection is conducted much more efficiently and effectively under HIMP than under traditional inspection because establishment personnel have already sorted carcasses and parts, trimmed dressing defects and contamination, and identified pathology defects on the carcasses, thereby correcting most removable defects, before the FSIS online inspectors perform their carcass-by-carcass inspection.

Under HIMP, offline inspection consists of system verification activities through which FSIS continuously monitors and evaluates establishment process control. FSIS conducts more offline, food safety related verification inspection activities under HIMP than under traditional inspection. Some examples of food safety related verification inspection activities include: HACCP, sanitation SOP, and other prerequisite program verification procedures, including 24 carcass verification checks per shift specifically for generalized diseases and conditions and for contamination (compared to 11 carcass verification checks per shift under traditional inspection). FSIS also conducts more offline humane handling verification tasks under HIMP than under traditional inspection.

FSIS has concluded that the HIMP model has a number of benefits, such as focusing FSIS inspection personnel on the areas of greatest risk in the hog slaughter system and providing an incentive to establishments to improve and innovate, while ensuring effective online inspection.

C. U.S. General Accountability Office (GAO) and the USDA's Office of the Inspector General (OIG) Reports on HIMP

In 2013, the U.S. General Accountability Office (GAO) and the USDA's Office of the Inspector General (OIG) evaluated FSIS's HIMP pilot study and issued findings and recommendations.[4] [5] GAO identified strengths in the pilot study, including that of giving plants responsibility and flexibility for ensuring food safety and quality and allowing FSIS inspectors to focus more on food safety activities. However, GAO also identified what it believed to be data gaps in the HIMP pilot study. GAO recommended that FSIS collect and analyze information to determine if the HIMP pilot study is meeting its purpose, and FSIS agreed with the recommendation.

The OIG report also included recommendations related to HIMP procedures. According to the OIG, FSIS did not adequately oversee the HIMP program because the Agency did not evaluate whether the program resulted in a measurable improvement of the inspection process; allowed one HIMP plant to forgo the standard FSIS policy to manually inspect viscera; and did not have formal agreements with the HIMP plants. In response to OIG, FSIS agreed to complete an evaluation of HIMP market hog establishments.

D. Analysis of HIMP

1. FSIS Evaluation of HIMP

In 2014, in response to the GAO and OIG reports, FSIS conducted a comprehensive analysis of data collected from the operation of HIMP in market hog establishments and prepared a written report (the ''Hog HIMP Report'') that presents a thorough evaluation of the models tested. Based on this evaluation, FSIS concluded that market hog slaughter establishments participating in HIMP were performing as well as comparable large non-HIMP market hog establishments and meeting FSIS requirements for operating under waivers through the HIMP project.

A summary of the Hog HIMP Report is provided below. The full Hog HIMP Report is available on the FSIS website at: *http://www.fsis.usda.gov/wps/wcm/connect/f7be3e74-552f-4239-ac4c-59a024fd0ec2/Evaluation-HIMP-Market-Hogs.pdf?MOD=AJPERES.* Before implementation of the HIMP project, an independent consulting firm, Research Triangle Institute (RTI) collected baseline organoleptic and microbiological data in the five market hog slaughter establishments that volunteered to participate in the HIMP program. These data reflect the performance of the establishments under traditional inspection and provided the basis to establish HIMP performance standards for food safety defects and non-food safety ''Other Consumer Protection'' (OCP) defects.

FSIS established three categories of food safety related performance standards under HIMP for these conditions: ''FS–1'' addresses infectious conditions (*e.g.,* septicemia, toxemia, pyemia, and cysticercosis); ''FS–2'' addresses contamination from fecal material, ingesta, and milk; and ''FS–3'' addresses certain conditions identified at ante-mortem (*e.g.* moribund, pyretic, and neurologic conditions). FSIS has a zero tolerance policy for food safety conditions identified as FS–1, FS–2, and FS–3 to protect consumers from conditions that may be harmful. Therefore, the HIMP performance standard for food safety defects was set at zero.

FSIS established the performance standard for non-food safety OCP

[4] GAO, 2013. More Disclosure and Data Needed to Clarify Impact of Changes to Poultry and Hog Inspections, *http://www.gao.gov/assets/660/657144.pdf.*

[5] OIG, 2013. Food Safety and Inspection Service—Inspection and Enforcement Activities at Swine Slaughter Plants, *https://www.usda.gov/oig/webdocs/24601-0001-41.pdf.*

defects based on the performance level of the establishment representing the 75th percentile for each category of OCP defects (*i.e.,* slightly below the fourth of the five baseline results for each category). FSIS established three categories of OCP performance standards for various types of trim and dressing defects that primarily affect the quality of products: ''OCP–1'' addresses carcass pathology defects (*e.g.,* arthritis, emaciation, and erysipelas) and was set at 4.1 percent of carcasses, ''OCP–2'' addresses visceral pathology defects (*e.g.,* cystic kidneys, enteritis, and nephritis) and was set at 7.2 percent of carcasses, and ''OCP–3'' addresses miscellaneous defects such as bile, bruises, and skin lesions and was set at 20.5 percent of carcasses. The HIMP performance standards were finalized in November 2000 (see 65 FR 65828, November 2, 2000). To participate in the program, establishments operating under HIMP are required to maintain process control plans to meet the performance standards for food safety and non-food safety OCP defects. The HIMP performance standards are a measure for comparing the performance of establishments operating under the HIMP inspection system with performance when operating under the current non-HIMP, traditional inspection system.

a. Overview of the HIMP Report

The Hog HIMP Report describes FSIS's microbiological and inspection findings in the five market hog slaughter establishments participating in HIMP and compares them with 21 non-HIMP establishments of comparable production volume, line speed, and days of operation. The evaluation is based on establishment performance results for calendar years CY2006 through CY2010, and CY2012 through CY2013. Establishment performance results from CY2006 to CY2010 are based on data from the previously used Performance Based Inspection System (PBIS) database and results from CY2012 to CY2013 are based on data from the new Public Health Information System (PHIS) database. FSIS began transitioning establishments from PBIS to the PHIS in April 2011. The period April 2011 to December 2011 was a transitional period during which the inspection results for some establishments were recorded under PBIS, while others were recorded under PHIS. The data under the two systems are not completely compatible because inspection task codes and noncompliance records (NRs) were recorded differently in PHIS than in PBIS. For this reason, the transitional period CY2011 is not included in the Hog HIMP Report, and the analysis of CY2006 through CY2010 data is separate from the CY2012 through CY2013 data.

Across HIMP and non-HIMP establishments, analyses compared the number of offline inspection procedures, the rates of health-related regulatory non-compliances, *Salmonella* positive rates, and violative chemical residue rates. FSIS evaluated offline inspection procedures to determine whether comparable levels of inspection are being performed in HIMP establishments compared to non-HIMP establishments. The Hog HIMP Report found that establishments participating in HIMP performed as well as comparable large non-HIMP establishments and met the Agency's requirements for participating in the HIMP project.

b. Verification by Offline Inspectors of the Establishment Executing Its HIMP Process Control Plan Under Which Establishment Employees Sort Acceptable and Unacceptable Carcasses and Parts

The Hog HIMP Report found that the rate of ante- and post-mortem sorting by HIMP establishment personnel was comparable to the rate of ante- and post-mortem condemnation by FSIS inspectors at non-HIMP market hog establishments (3.0 per 1,000 hogs compared to 2.7 per 1,000 hogs, respectively). The Hog HIMP Report also found that FSIS inspectors in HIMP establishments performed more offline inspection activities than in non-HIMP establishments to verify that the establishments are executing their HIMP slaughter process control plans. In CY2010, FSIS inspectors performed an average of 2,061 offline verification inspections per HIMP market hog establishment compared to an average of 1,482 offline verification inspection procedures per non-HIMP establishment. Accordingly, FSIS inspectors performed 1.4 times more offline verification inspection procedures in HIMP market hog establishments than in non-HIMP market hog establishments. In CY2013, FSIS inspectors performed an average of 19,180 Public Health Regulation (PHR) [6] verification tasks per HIMP market hog establishment compared to an average of 14,099 PHR verification tasks per non-HIMP establishment. Thus, FSIS inspectors performed 1.4 times more of the offline inspection verifications of mandatory regulations in HIMP market hog establishments than in non-HIMP market hog establishments. The HIMP Report concluded that this increased level of offline inspection activities provides increased assurance that HIMP establishments are maintaining OCP and food safety defects at levels that are to or less than the levels in non-HIMP establishments.

c. Verification of the Establishment Executing Its HACCP System Under 9 CFR Parts 416 and 417

The sanitation SOP regulations in 9 CFR 416 and the HACCP regulations in 9 CFR 417 are among the regulations most strongly related to public health. The Hog HIMP Report found that in CY2010, FSIS inspectors performed 1.5 times more offline sanitation SOP and HACCP inspection verifications of public health-related regulations in HIMP than non-HIMP market hog comparison establishments. In CY2012 and CY2013, FSIS inspectors performed 1.1 times more offline sanitation SOP and HACCP inspection verifications of public health-related regulations in HIMP than non-HIMP market hog comparison establishments.

The regression analysis of historical data that was included in FSIS's ''Risk Assessment for Guiding Public Health-Based Poultry Slaughter Inspection,'' which was used to inform the final rule ''Modernization of Poultry Slaughter Inspection'' (79 FR 49565), showed a statistically significant correlation between unscheduled offline inspection procedures and reduction in the prevalence of *Salmonella* and *Campylobacter* positive samples. Based on these modeling results, FSIS thought it was reasonable to conclude that the redeployment of Agency resources to unscheduled offline activities was likely to contribute to improved food safety resulting from a lower prevalence of carcasses contaminated with Salmonella and Campylobacter, which in turn could lead to fewer human illnesses. Depending on how reallocation of inspection activities was implemented, it was likely that changes in off-line inspection could have resulted in a decrease in the numbers of positive microbial samples in FSIS-regulated young chicken and young turkey establishments. Specifically, the scenario that only increased unscheduled inspection procedures performed much better than the scenario that did not target specific

[6] PHRs consists of regulations and specific provisions of regulations that have higher rates of noncompliance three months before a pathogen positive or enforcement action. The inclusion of provisions of regulations in the PHR list allows FSIS to focus on specific health related provisions of regulations that may be most informative for prioritizing Food Safety Assessments (FSAs). FSAs are in-depth evaluations of an establishment's food safety system. FSAs can be routine or for cause.

types of procedures, and the results suggest a reasonable degree of confidence that the discriminate scenario would do no harm. That poultry slaughter risk assessment is available on FSIS's website at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/haccp/haccp-based-inspection-models-project/himp-study-plans-resources/poultry-slaughter-inspection.* The risk model and model results are also posted on-line as a technical support document for the risk assessment on the FSIS website. The market hog risk assessment uses a similar approach and model as the poultry slaughter risk assessment and estimates the reduction in illnesses likely to result from the reallocation of inspectors contemplated by this proposed rule. The market hog risk assessment is discussed in more detail below.

d. Verification of the Outcomes of the Establishment Process Control Plan, Both Organoleptic and Microbiologic

To assess the microbiological outcomes of HIMP establishments' process control plans, the Hog HIMP Report analyzed data from FSIS's *Salmonella* verification program. For the years CY2006–CY2009, the differences in *Salmonella* positive rates between HIMP market hog establishments and non-HIMP comparison establishments were not statistically significant for any of the years. The Hog HIMP Report also analyzed data from FSIS's *Salmonella* baseline study on market hog slaughter establishments, conducted from August 2010 to August 2011. The *Salmonella* positive rates in HIMP market hog establishments were not statistically significantly different from those in the subset of 21 non-HIMP comparison establishments. This is probably the result of the small sample size relative to the low *Salmonella* positive rate. However, in the August 2010 to August 2011 baseline study the *Salmonella* positive rates in HIMP market hog establishments were statistically significantly lower than those in all 147 non-HIMP market hog establishments (which included the subset of 21 non-HIMP comparison establishments, as well as all other non-HIMP market hog establishments) (0.65 percent versus 3.05 percent).

The Hog HIMP Report also analyzed data from FSIS's residue sampling program for chemical contaminants including approved and unapproved veterinary drugs, pesticides, and environmental compounds. FSIS conducts directed sampling scheduled by FSIS Headquarters and inspector-generated sampling when the FSIS PHV suspects that an animal may have a violative level of chemical residue. The Hog HIMP Report found no differences in the number of scheduled directed samples collected in the HIMP market hog establishments and those in the non-HIMP market hog comparison establishments. However, the Hog HIMP Report found that FSIS offline inspectors at the HIMP market hog establishments were able to collect 2.7 times more inspector-generated residue samples than inspectors at the non-HIMP market hog comparison establishments for CY2009–2010, and 1.7 times more for CY2012–2013 because the inspectors had more time to conduct offline activities. Data from FSIS's residue sampling program showed that from CY2006 to CY2010, the number of samples that tested positive for violative levels of chemical residues in HIMP market hog establishments were not statistically significantly different from those in the non-HIMP market hog comparison establishments (zero versus six (0.057 percent of samples)). However, from CY2012 to CY2013, the amount of samples that tested positive for violative levels of chemical residues in HIMP market hog establishments was statistically significantly lower than non-HIMP market hog comparison establishments (nine violative levels (0.15 percent of samples) versus 115 (0.76 percent of samples). The Hog HIMP Report explained that this difference could suggest that the HIMP market hog establishments are exercising active control of potential chemical hazards in their products, and that this approach may result from better control over contract grower relationships by the five HIMP market hog establishments.

e. Conclusion of HIMP Report

The Hog HIMP Report concluded that HIMP market hog establishments are receiving more offline food safety related inspection verification checks than the non-HIMP market hog comparison establishments, and that the HIMP inspection system, which provides for increased offline inspection activities that are directly related to food safety, results in greater compliance with sanitation and HACCP regulations (9 CFR parts 416 and 417); carcasses with equivalent or lower levels of *Salmonella* contamination; and carcasses with lower levels of violative chemical residues.

f. Verification of Humane Handling

FSIS inspectors verify that establishments comply with the HMSA by performing Humane Activities Tracking System (HATS) tasks that are divided into nine categories. The HATS tasks provide FSIS with data on the time that FSIS inspectors spend verifying whether (1) establishments adapt their facilities to inclement weather; (2) humanely handle livestock during truck unloading; (3) provide water and feed to livestock in holding pens; (4) humanely handle livestock during ante-mortem inspection; (5) humanely handle ''U.S. Suspect'' and disabled livestock; (6) move livestock without excessive prodding or the use of sharp objects after ante-mortem inspection; (7) prevent livestock from slipping and falling; (8) effectively administer stunning methods that produce unconsciousness in the animals; and (9) ensure that animals do not regain consciousness throughout the shackling, sticking, and bleeding process. FSIS inspectors enter the hours devoted to verifying humane handling activities for the HATS categories. The data is entered into PHIS in one-quarter hour increments (*e.g.,* .25, .5, .75, 1.0).

The Hog HIMP Report did not address compliance with the HMSA, but FSIS reviewed HATS task data in PHIS from January 2013 through September 2015 and compared the number of offline humane handling activities performed in five HIMP market hog establishments and the same 21 comparable large non-HIMP market hog establishments that FSIS used in the Hog HIMP Report. The Agency found that FSIS inspectors spent more time verifying that specific humane handling and slaughter requirements were met in HIMP market hog establishments than in non-HIMP market hog establishments. FSIS inspectors devoted approximately 5.33 hours per shift to verifying humane handling activities for the HATS categories in HIMP market hog establishments compared to approximately 4.29 hours per shift in the 21 non-HIMP market hog comparison establishments. FSIS also compared the rate of humane handling NRs issued in HIMP market hog establishments and non-HIMP market hog establishments. FSIS inspectors documented fewer humane handling NRs in HIMP market hog establishments than in non-HIMP market hog establishments. From January 2013 through September 2015, FSIS recorded 11 humane handling NRs in five HIMP market hog establishments and 117 NRs in the 21 non-HIMP market hog comparison establishments. It should be noted that none of the 11 NRs recorded in the HIMP establishments documented market hogs being forced to

move faster than normal walking speeds to keep up with faster evisceration line speeds. The data demonstrate that HIMP establishments have higher compliance with humane handling regulations than non-HIMP establishments, and that increased offline inspection may improve compliance with the HMSA.

E. Public Health Benefits Projected From Allocating More Inspection Resources to Food Safety-Related Inspection Activities

1. Market Hog Risk Assessment

FSIS completed a quantitative risk assessment to determine how performing a greater number of offline inspection procedures in market hog slaughter establishments might affect the number of human illnesses from *Salmonella.* These offline inspection procedures primarily involve activities that FSIS inspection personnel perform to verify the effectiveness of establishment sanitary operations and other food safety-related activities. The Hog HIMP Report, discussed above, found that FSIS inspectors performed more offline inspections to verify compliance with sanitation SOP and HACCP regulations in HIMP establishments than they do in non-HIMP establishments. The risk assessment is available for viewing by the public in the FSIS docket room and on the FSIS website at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.*

FSIS developed the market hog risk assessment to help the Agency inform its judgement about the potential impact of changes to FSIS's swine inspection system on risks to public health associated with pork products. To give the Agency the information it needed, the market hog risk assessment focused on three risk management questions:

(1) What predicted effects will various models for increasing the number of offline inspection tasks in non-HIMP establishments have on human salmonellosis rates?

(2) Where can inspectors be relocated to have the most impact toward reducing *Salmonella* prevalence and corresponding human illness?

(3) What is the magnitude of uncertainty about the predicted prevalence of pathogens and corresponding illness effects?

2. Model

FSIS developed a risk assessment model for exploring the potential relationships between current variations in inspection personnel assignments and prevalence of *Salmonella* on hog carcasses, and estimating the subsequent possible reductions in human illnesses attributable to that pathogen. FSIS paired inspection data with *Salmonella* prevalence data for the same establishments and timeframes. As explained above, FSIS based this risk assessment model on the model for the risk assessment that FSIS used to inform the final rule ''Modernization of Poultry Slaughter Inspection'' (79 FR 49565).

FSIS employed a stochastic simulation model using multi-variable logistic regressions to identify correlations between (1) the numbers of offline food-safety inspection procedures, both scheduled and unscheduled, along with the numbers of non-compliances and scheduled-but-not-completed procedures, and (2) contamination of hog carcasses with *Salmonella.*[7] The correlations were used to predict the potential effect that devoting more resources to those offline procedures might have on human illness attributable to the consumption of pork products. Stochastic simulations were used to account for statistical uncertainty in the estimates relating inspection procedures in an establishment to detection of *Salmonella* in samples from hog carcasses. Illness estimates were based on data from the Centers for Disease Control and Prevention (CDC), and uncertainty distributions were used to account for the variability in annual *Salmonella* illnesses and statistical uncertainty about the relationship between the pathogen prevalence levels at the establishments and the corresponding annual number of illnesses that could be attributed to the pathogens.

3. Conclusions of the Market Hog Risk Assessment

The regression analysis of historical data included in the market hog risk assessment showed a statistically significant correlation between (1) increased scheduled and unscheduled offline procedures and decreased scheduled but not performed procedures and (2) reduction in the prevalence of *Salmonella* positive samples. Based on these results, the redeployment of Agency resources to scheduled and unscheduled offline activities, along with a reduction in scheduled but not performed procedures, is likely to contribute to food safety resulting from a lower prevalence of carcasses contaminated with *Salmonella,* which in turn we expect to lead to fewer human illnesses.

In answer to the first risk-management question, the market hog risk assessment results suggest that, depending on how reallocation of inspection activities is implemented, it is likely that changes in offline inspection would not result in an increase in the prevalence of *Salmonella* in hog carcasses, and could even result in a decrease in the prevalence of *Salmonella* in hog carcasses. Specifically, the scenario that simultaneously increases unscheduled and scheduled inspection procedures and decreases scheduled but not performed procedures performs better than scenarios that target the three specific types of procedures one at a time. Under the scenario where all types of procedures are targeted for increase, with resulting decrease in scheduled but not performed procedures and decrease in instances of observed and reported establishment non-compliance, the model estimates an average decrease of 2,533 *Salmonella*-related illnesses per year attributable to pork products. FSIS assumes that 65,869 expected annual *Salmonella* illnesses are attributed to consumption of pork products. Thus, a reduction of 2,533 expected *Salmonella* illnesses annually, would reflect a 3.8 percent reduction in *Salmonella* illnesses attributable to pork products.

Responding to the second question, modeling and scenario analysis results suggest that increasing scheduled and unscheduled procedures and decreasing scheduled but not performed procedures would be most effective in reducing pathogen occurrence on carcasses because of consistency in the decision variable parameter's effect across all models. However, each category of offline procedures relates to an individual decrease in *Salmonella* contaminated carcasses which if any one of the three categories or a combination of categories of offline procedures were implemented still would result in decreased contamination, but less than if the scenario combining all three decision variables was adopted.

In answer to the third risk-management question, on the uncertainty of the results for pathogen prevalence and illness reductions, FSIS's modeling approach includes the inherent uncertainty about the relationship between the frequency of inspection activities and pathogen prevalence, about the actual change in future inspection activities that would

[7] Scheduled procedures are assigned to inspectors at an establishment by PBIS or PHIS. Unscheduled procedures are performed according to inspector needs at an establishment and may include verification checks for fecal, ingesta, and milk, or they may be a response to unforeseen hazards or unsanitary conditions arising from sanitation SOP failures, or the need to verify corrective actions taken under the establishment's HACCP plan.

likely be observed, and about the representativeness of the rates of human *Salmonella* illnesses attributable to pork products.

III. Proposed NSIS

FSIS is proposing to create a new swine slaughter inspection system, the NSIS, informed by the Agency's experiences under HIMP and NPIS. All establishments that slaughter market hogs would be permitted to operate under the proposed NSIS. Establishments that slaughter classes of swine other than market hogs would be permitted to operate under NSIS under a waiver through the SIP. FSIS would consider the data collected in swine slaughter establishments operating under a SIP waiver to determine whether to expand NSIS to other classes of swine. Establishments that slaughter market hogs and other classes of swine, and that do not want to slaughter other classes of swine under NSIS under a waiver through the SIP, would be permitted to slaughter market hogs under NSIS and to slaughter the other classes of swine under traditional inspection. FSIS would staff such establishments to NSIS and would not add additional staff for traditional inspection; therefore, establishments would need to operate traditional inspection under slower line speeds than they are currently operating to accommodate for the reduced number of inspectors. FSIS seeks comment on the impact of staffing at establishments that slaughter market hogs and other classes of swine and how it will impact their decision to participate in NSIS.

A. Live Market Hog Sorting by Establishment Personnel

Under the proposed NSIS, establishment personnel would be required to sort market hogs and remove for disposal animals unfit for slaughter before they are presented to FSIS PHVs for inspection and final disposition. Establishment personnel would sort animals that appear to be healthy into ''Normal'' pens and animals that appear to have diseases or abnormal conditions into ''Subject'' pens. Establishment personnel may also sort and remove animals with localized conditions (*e.g.,* animals with arthritis or abscesses) or animals that do not meet establishment specifications (*e.g.,* hogs that are the wrong size or underweight) to be diverted to another official establishment for slaughter. Establishment personnel would remove and properly dispose of dead and moribund animals and animals suspected of having CNS conditions or pyrexia. Under the proposed NSIS, FSIS inspectors would inspect all animals found by the establishment to be normal at rest, and five to ten percent of those animals in motion. If any animals exhibit signs of condemnable conditions, FSIS inspectors would direct establishment employees to move the animals to the ''U.S. Suspect'' pens for final disposition by the FSIS PHV. The FSIS PHV would inspect all animals in the ''Subject'' and ''U.S. Suspect'' pens and render a final disposition decision. FSIS inspectors would observe establishment employees performing sorting procedures at least twice per shift. During this time, FSIS inspectors would verify that animals that are intended to be disposed of are humanely euthanized and that animals that are intended to be diverted to another official establishment are eligible for transport. FSIS inspectors also would conduct HACCP verification tasks in PHIS at least twice per shift to verify that establishments meet the regulatory requirements found in 9 CFR 417 for implementation, monitoring, recordkeeping, prerequisite programs (when applicable), and corrective actions. Under the proposed rule, if any market hogs become non-ambulatory disabled after ante-mortem inspection, establishments would be required to move them to the ''Subject'' pens for re-inspection by FSIS PHVs. All sorting would be a function of the establishment's HACCP plan or pre-requisite program. Because establishments operating under the proposed NSIS would be required to sort and remove market hogs that are unfit for slaughter before FSIS ante-mortem inspection, FSIS is proposing that establishments under the proposed NSIS address, as part of their HACCP system, procedures for sorting animals showing signs of diseases or abnormalities from healthy animals. These procedures must cover establishment sorting activities for dead and moribund swine and swine suspected of having CNS conditions or pyrexia.

FSIS also is proposing to require that establishments immediately notify FSIS inspectors in the rare circumstance that they suspect animals of having notifiable or foreign animal diseases during sorting activities. For example, establishments may suspect that market hogs have notifiable or foreign animal diseases if they observe animals with abnormal lesions or behavior, or an abnormal change in the amount of animals that arrive to the establishment dead. Notifiable diseases are those that are designated by the World Animal Health Organization (Office International des Epizooties or OIE). The list of notifiable diseases includes anthrax, cysticercosis, scabies, bovine tuberculosis, myiasis (screwworm), and vesicular diseases. Of these diseases, anthrax, cysticercosis, and bovine tuberculosis are transmissible to humans. The complete list is available on OIE's website at *http://www.oie.int/en/animal-health-in-the-world/oie-listed-diseases-2016/.* FSIS would report any animal disease issues to the USDA Animal and Plant Health Inspection Service (APHIS).

Under the proposed NSIS, FSIS would maintain its zero tolerance for market hogs exhibiting signs of moribundity, CNS conditions, and pyrexia. Market hogs exhibiting signs of these generalized diseases or conditions, if not sorted and removed by the establishment before ante-mortem inspection, would be condemned by FSIS PHVs, as under the existing regulations (9 CFR 309.3). FSIS PHVs would issue an NR for every animal exhibiting signs of moribundity, CNS conditions, or pyrexia found by the FSIS inspector after the establishment sorting step is completed.

Additionally, under the proposed NSIS, FSIS would maintain its zero tolerance for violative levels of chemical residues. Establishments would be required to address chemical hazards through their HACCP program including preventing animals with violative levels of chemical residues from being presented for slaughter. FSIS inspectors would continue to select animals at post-mortem and perform chemical residue sample collection and testing procedures in accordance with FSIS Directive 10,800.1, Residue Sampling, Testing and Other Verification Procedures under the National Residue Program for Meat and Poultry Products (available on FSIS's website at *http://www.fsis.usda.gov/wps/wcm/connect/147066f0-564c-4590-b36f-97ffc5ab9797/10800.1.pdf?MOD=AJPERES*).

Under the proposed NSIS, establishment personnel would be required to identify carcasses of market hogs sorted and removed by establishment employees before FSIS inspection and intended for disposal and destruction with a unique tag, tattoo, or similar device. Establishment personnel also would be required to immediately denature all carcasses and parts removed as unacceptable by plant sorters on-site, even if establishments have tanking facilities, to ensure that the carcasses and parts are properly disposed of and never enter commerce. Under the proposed NSIS, establishment personnel would be required to maintain records to

document the number of animals and carcasses and parts sorted and removed by establishment personnel per day. These records and procedures would be subject to daily review by FSIS inspectors. Under NSIS, FSIS inspectors would document in PHIS the total number of animals that the establishment employees have sorted and removed per day. Under the proposed rule, FSIS would still direct the application and removal of ''U.S. Condemned'' tags to animals condemned during ante-mortem inspection. FSIS would also continue to enter each and every ''U.S. Condemned'' tag into PHIS. However, FSIS inspectors should be able to complete these tasks faster because they would be presented animals that have been sorted by establishment employees and are thus more likely to pass ante-mortem inspection and not have condemnable conditions.

In addition to the total number of animals sorted and removed by establishment personnel per day before FSIS ante-mortem and post-mortem inspection, FSIS is requesting comments on whether or not the Agency should require establishments under NSIS to specify in their records the reason that the animals were removed from slaughter, including animals sorted and removed because they were dead on arrival or suspected of having CNS conditions, pneumonia, pyrexia, septicemia, erysipelas, or tuberculosis (*e.g.,* 20 sorted and removed; 10 pneumonia, 10 dead on arrival) and how this information should be collected. Under traditional inspection, FSIS inspectors record similar condemnation information into PHIS for APHIS' swine slaughter condemnation monitoring system; however, this information is not being collected under HIMP. APHIS Veterinary Services (VS) uses this type of data to monitor changes in the rate or count of swine condemnations by swine type (market, roaster, sow, and boar) and by selected condemnation categories (*e.g.,* central nervous system disorders, dead on arrival, pneumonia, pyrexia, septicemia, erysipelas, and tuberculosis). APHIS conducts weekly monitoring to compare baseline (expected) condemnation counts by condemnation category to current weekly counts to identify noteworthy increases (signals) in condemnations in near-real time. APHIS produces a weekly report, and shares it with the National Pork Board to identify any noteworthy increases in condemnations which could indicate the emergence of disease and may warrant further investigation. FSIS and APHIS recognize that ''presumptive diagnoses'' by establishment personnel under the NSIS may not be as accurate as condemnation information entered by an FSIS PHV under traditional inspection. However, FSIS and APHIS believe that the self-reported information may still be useful and significant in monitoring disease conditions in the United States.

B. Post-Mortem Carcass Sorting by Establishment Employees and Online Carcass Inspection

Under the proposed NSIS, establishment personnel would be required to sort carcasses and parts and trim dressing defects and contamination (*e.g.,* hair, bruises, feces, ingesta, and milk) before the carcasses and parts are presented to an FSIS online inspector for post-mortem inspection. Establishment personnel also would be required to mark with ink, or otherwise identify, localized pathological defects intended for removal under FSIS supervision (*e.g.* localized nephritis and localized arthritis) and carcasses and parts intended for disposal under FSIS supervision (*e.g.,* carcasses and parts with malignant lymphoma). Under the proposed NSIS, the head, and viscera of each hog must be handled in a way as to identify them with the rest of the carcass and as being derived from the particular animal involved, until FSIS's post-mortem inspection of the carcass and parts thereof have been complete. FSIS would not complete an inspection of the carcass if the head or viscera were missing before the final rail, unless the head or viscera were properly disposed of under FSIS supervision. Consistent with traditional inspection, only FSIS inspectors would be authorized to condemn carcasses and parts.

Carcasses and parts contaminated with fecal material, ingesta, or milk or that exhibit signs of septicemia, toxemia, pyemia, or cysticercosis during post-mortem examination are likely to contain infectious agents, such as bacteria, virus, richettsia, fungus, protozoa, or helminth organisms, which can be transmitted to humans. For this reason, they present a food safety risk if they are permitted to enter the cooler. Therefore, FSIS is proposing that establishments under the new system address, as part of their HACCP systems, procedures for ensuring that carcasses and parts contaminated with fecal material, ingesta, or milk or affected by septicemia, toxemia, pyemia, or cysticercosis are trimmed or identified by the establishment before they are presented to the FSIS carcass inspector and disposed of under FSIS supervision. These procedures must cover establishment sorting activities for these conditions.

Under this proposal, FSIS would maintain its zero tolerance for carcasses and parts contaminated by fecal material, ingesta, or milk, or affected by septicemia, toxemia, pyemia, or cysticercosis. If FSIS online inspectors discover a carcass contaminated by fecal material, ingesta, or milk, they would stop the line for carcass reexamination and trimming by the establishment unless the establishment elected to provide a rail-out loop to rail contaminated carcasses offline for reexamination, trimming, and positioning back on the line for reinspection, consistent with the existing regulations (9 CFR 310.17 and 310.18) and FSIS Directive 6420.2, *Verification of Procedures for Controlling Fecal Material, Ingesta, and Milk in Slaughter Operations* (available on FSIS's website at *http://www.fsis.usda.gov/wps/wcm/connect/478aca76-37c5-4dc3-9925-1556402d8daf/PHIS_6420.2.pdf?MOD=AJPERES*). An NR would be issued by the FSIS offline inspector at or after the final rail for every carcass contaminated by fecal material, ingesta, or milk. FSIS online inspectors would also stop the line if they discover carcasses exhibiting septicemia, toxemia, pyemia, or cysticercosis, as under the existing regulations (9 CFR 311.16 and 311.17). The carcasses would be retained for FSIS PHV disposition. An NR would be issued by the PHV for every carcass affected by septicemia, toxemia, pyemia, or cysticercosis that reaches the online carcass inspection station. Moreover, because establishments would be required to address these food safety hazards in their HACCP systems, the Agency continuously would assess the effectiveness of an establishment's procedures for ensuring that carcasses are prevented from becoming contaminated with fecal material, ingesta, or milk, and that carcasses affected by septicemia, toxemia, pyemia, or cysticercosis do not reach the final FSIS inspection station.

FSIS is not proposing to prescribe specific sorter training or certification to give establishments operating under the NSIS the flexibility to select the training program that would best assist them to meet the requirements of this proposed rule. However, the Agency has developed a draft guidance document to assist establishments in training their sorters should this rule become final. The draft guidance is based on the training that FSIS provides to online inspection personnel that are responsible for identifying these non-food safety defects on carcasses and

parts under traditional inspection. FSIS has posted this draft compliance guide on its web page (*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index*) and is requesting comments on the guidance.

FSIS believes that training of sorters is important to ensure that they are able to properly perform their duties. Proper training is necessary if sorters are to make accurate decisions on how to address animal disease conditions and trim and dressing defects. Under the proposed NSIS, if sorters do not make these decisions correctly, FSIS inspection personnel would take appropriate action such as stopping the line, issuing NRs, and directing the establishment to reduce the line speed. FSIS would thereby ensure that the establishment is able to maintain process control as evidenced by preventing fecal contamination and meeting microbial performance measures, that the establishment sorters are able to successfully perform their duties, and that the FSIS online inspectors are able to conduct a proper food safety inspection.

Establishments that operate under the proposed NSIS would have greater flexibility over their production process. For example, establishments operating under the proposed NSIS would have the flexibility to reconfigure lines if they decided to change the way that the head, viscera, and carcasses are presented to FSIS inspectors to improve ergonomics and process control and to maintain optimum line speed. FSIS would still inspect the head, viscera, and carcass of each animal. However, under the proposed NSIS, establishments may reconfigure their lines so that they present a ready-to-inspect head, viscera, and carcass for FSIS post-mortem inspection in one location or separately in two or three locations. FSIS would assign one to three inspectors to conduct online inspection activities, depending on need and line configuration. These inspectors would also rotate to conduct offline inspection activities. FSIS would assign one online inspector only if the Agency had the data and experience (including processes and procedures) to ensure that one inspector is able to conduct all online post-mortem inspection activities. Under the proposed NSIS, all establishments with fewer than three inspection stations would be required to provide a mirror at the carcass inspection station in accordance with 9 CFR 307.2 (m)(6) so that the inspector standing at the inspection station can readily view the back of the carcass for evidence that could impact food safety.

Under NSIS, as under HIMP, establishment sorters would be required to incise mandibular lymph nodes and palpate the viscera to detect the presence of animal diseases (*e.g.,* Mycobacterium Avium) as part of their sorting activities before FSIS post-mortem inspection. FSIS is requesting comments on whether or not the Agency should allow establishments that operate under the proposed NSIS to use discretion when deciding, on a lot-by-lot basis, whether or not to incise mandibular lymph nodes and palpate the viscera to detect the presence of animal diseases (*e.g., M. Avium*) if they submit documentation to FSIS supporting that the presence of M. Avium is not likely to occur, such as records documenting their on-farm controls. In the last 10–15 years, industry led initiatives like the Pork Quality Assurance Plus certification program (*http://www.pork.org/pqa-plus-certification*) and the Common Industry Audit (*http://www.pork.org/common-industry-audit*) have improved biosecurity practices which not only reduce disease spread but also address risk factors for *M. Avium* such as exposure to birds.[8] [9] Because on-farm practices have improved, the prevalence of *M. Avium* in U.S. swine is very low. After reviewing PHIS condemnation data from 21 large market hog establishments from 2012 through 2015, FSIS found that only 0.9 percent of all condemnations are due to *M. Avium.* The animal disease *M. Avium* does not present a food safety concern, and can be detected visually by inspectors.

Moreover, Denmark and the Netherlands already conduct alternative post-mortem visual inspections and allow establishments to use discretion when determining, on a lot-by-lot basis, whether or not to incise lymph nodes and palpate the viscera. Under the FMIA and the regulations that implement it, meat and meat products imported into the United States must be produced under standards for safety, wholesomeness, and labeling accuracy that are equivalent to those of the United States (21 U.S.C. 620). FSIS has reviewed Denmark's and the Netherlands' market hog slaughter inspection systems and found them to be equivalent to the United States' market hog slaughter inspection system. FSIS determined that visual post-mortem inspection will still allow veterinary inspectors to palpate and incise lymph nodes and organs (as occurs in traditional inspection) at their discretion. Each herd of hogs that arrives at establishments to be slaughtered is accompanied by historical ''Supply-Chain Information,'' which consists of paperwork that documents the health status and history of each herd, complete traceback information, as well as details about the originating farm (*e.g.,* history of disease, use of medications, and on-farm practices that contribute to maintenance of the herd's health.) FSIS concluded that this documentation, as well as any ante-mortem inspection observances, will be sufficient to inform the veterinary inspector's decision whether or not to perform visual inspection or traditional inspection. Importantly, because lymphatic tissue may be contaminated with pathogens, not incising the lymphatic tissue may reduce contamination of food contact surfaces and other carcasses.

FSIS also is proposing to require establishment personnel to maintain records to document the number of carcasses and parts disposed of by establishment personnel per day as part of their sorting activities. The records would not need to include the number of carcasses condemned by FSIS. These records would be subject to review by FSIS inspectors. Under NSIS, FSIS inspectors would document in PHIS the total number of carcasses and parts sorted and disposed of by plant employees per day. FSIS inspectors would continue to enter dispositions for each and every carcass condemned by FSIS into PHIS.

C. Offline Verification Inspection

In addition to the online inspectors performing carcass inspection, FSIS is proposing that up to two inspectors be assigned for each evisceration line per shift to conduct offline verification activities in establishments operating under the proposed NSIS. Inspectors conducting offline inspection activities would rotate with the inspectors conducting online inspection activities. FSIS is also proposing to assign one PHV to make carcass and parts dispositions.

As in HIMP, offline inspectors under the new inspection system would conduct food safety related inspection activities and would continuously

[8] United States Department of Agriculture, Animal and Plant Health Inspection Service. (2008). National Animal Health Monitoring System Swine 2006, Part IV: Changes in the U.S. Pork Industry, 1990–2006. Retrieved from *https://www.aphis.usda.gov/animal_health/nahms/swine/downloads/swine2006/Swine2006_dr_PartIV.pdf.*

[9] United States Department of Agriculture, Animal and Plant Health Inspection Service. (2015). National Animal Health Monitoring System Swine 2012, Part 1: Baseline Reference of Swine Health and Management in the United States, 2012. Retrieved from *https://www.aphis.usda.gov/animal_health/nahms/swine/downloads/swine2012/Swine2012_dr_PartI.pdf.*

monitor and evaluate establishment process control. Offline inspectors would conduct inspection activities including HACCP, sanitation SOP, and other prerequisite program verification procedures; verification checks for septicemia, toxemia, pyemia, cysticercosis, fecal material, ingesta, or milk contamination; checks to verify and ensure that sanitary dressing requirements are being met; and ante-mortem inspection. Under this proposed rule, offline inspectors would also conduct more humane handling verification tasks than are conducted under traditional inspection. The offline verification inspectors would work with the Inspector-In-Charge (IIC) to ensure that food safety related or non-food-safety related conditions do not impair the online carcass inspectors' ability to conduct the inspection of each head, viscera, and carcass or would notify the IIC whenever circumstances indicate a loss of process control. When circumstances indicate a loss of process control, the IIC will be authorized to require that the establishment slow the evisceration line speed.

D. RTC Pork Product

As discussed above, under HIMP, OCP standards are non-food safety standards concerned primarily with diseases of no public health significance and carcass processing defects. Data collected from market hog establishments operating under HIMP show that from CY 2012 through 2013, HIMP establishments maintained OCP defect levels that average about half the corresponding OCP performance standards derived from the performance of non-HIMP establishments. Thus, the data show that establishments operating under the HIMP system do exceptionally well in controlling OCP defects.

Accordingly, FSIS is not proposing OCP requirements as a condition for establishments to participate in the proposed NSIS. Under this proposal, establishments operating under NSIS would be allowed to implement the process controls that they have determined will best allow them to produce an RTC pork product that is wholesome and not adulterated. The new proposed definition of RTC pork product is any slaughtered pork product free from bile, hair, scurf, dirt, hooves, toe nails, claws, bruises, edema, scabs, skin lesions, icterus, foreign material, and odor which is suitable for cooking without need of further processing.

Under the proposed NSIS, establishments would have the flexibility to design and implement measures to address OCP defects that are best suited to their operations. They would also be responsible for determining the type of records that will best document that they are meeting the RTC pork product definition. The records would be subject to review and evaluation by FSIS inspectors.

For their record reviews, FSIS inspectors would verify that establishments operating under the proposed NSIS have written criteria for determining whether carcasses meet the RTC definition and that they are documenting that the pork products resulting from their slaughter operations meet these criteria before packaging or further processing that would conceal a defect. Records that would meet the proposed requirements include:

- The records system that the establishment uses to document that it is producing RTC pork. For example, an establishment may use statistical process control charts, HACCP records, or other documentation.
- The points in the operation where the establishment monitors carcasses to determine whether they meet the RTC definition and records the results of its monitoring activities. For example, an establishment may conduct monitoring and record the results at a pre-evisceration and a post-chill station.
- The frequency with which the establishment conducts monitoring activities. The records should specify how often the establishment monitors carcasses per line per shift. For example, an establishment may conduct and document its monitoring activities at least every two hours per line per shift at the pre-evisceration location and at least twice per shift per line for post-chill location.
- The definitions of the OCP non-conformances or processing and trim defects for which the establishment is monitoring. For example, the establishment may be monitoring carcasses for processing and trim non-conformances as specified for trim and processing OCP defects specified under the HIMP OCP performance standards, or defects as defined in a published study or a study that the establishment conducted itself. If the establishment references a study, it should give a brief description of the study and have the supporting information on file.
- The criteria that the establishment would use to determine that the products resulting from its slaughter operation meet the RTC definition. For example, an establishment may follow the subgroup limits for non-conformances and defects in the trim and processing defect levels for the HIMP OCP performance standards, or it may determine the upper limits for non-conformances using a statistical process control program.
- The corrective actions that the establishment would take if the levels of defects and non-conformances exceed its evaluation criteria for RTC pork.

Under this proposed rule, pork carcasses that meet the OCP performance standards under HIMP would be considered ''suitable for cooking without the need for further processing,'' and as such, meet the RTC pork product definition. Therefore, establishments operating under the NSIS that adopt the OCP HIMP performance standards as their criteria for determining whether they are producing RTC pork product would meet the regulatory requirements if: (1) They can document that the products resulting from their slaughter operations consistently meet these standards, and (2) FSIS inspectors do not observe persistent, unattended defects on the products resulting from the establishment's slaughter operations. Establishments that adopt criteria other than the HIMP OCP standards would be required to have documentation to demonstrate how they will use these criteria to demonstrate that the products resulting from their slaughter operations meet the RTC pork product definition.

In addition to record reviews, FSIS inspectors would verify that establishments operating under the NSIS are producing RTC pork product by visually observing carcasses as part of their inspection activities. The presence of persistent, unattended trim and dressing defects on carcasses at the end of the process would indicate that the establishment is not producing RTC pork product. It may also indicate a general lack of control in an establishment's overall slaughter and dressing process. Thus, if inspectors observe persistent, unattended defects, FSIS would require that the establishment take appropriate actions to ensure that its process is under control and that it is operating under conditions necessary to produce safe, wholesome, and unadulterated RTC products. If inspection personnel through their record review or direct observation of carcasses find evidence that an establishment is producing pork that does not meet the RTC definition, the IIC would be authorized to take appropriate action to ensure that the establishment remedies the defects, including requiring that the establishment slow the evisceration line speed.

E. Line Speeds Under NSIS

Based on FSIS's experience under HIMP, the Agency is proposing to allow

establishments operating under NSIS to determine their own evisceration line speeds if Agency personnel verify that process control is maintained. The maximum line speed under the existing regulations for market hogs is 1,106 head per hour (hph) with seven online inspectors. Experience from the HIMP pilot shows that HIMP establishments operate with an estimated average line speed of 1,099 hph, and that the line speeds varied from 885 hph to 1,295 hph (under waiver). Thus, although they are authorized to do so, market hog HIMP establishments do not operate at line speeds that are significantly faster than the current maximum line speeds for market hogs. Establishments determine their line speeds based on their equipment, animal size and herd condition, and their ability to maintain process control when operating at a given line speed. In addition, line speeds under HIMP depend on the number of employees the establishments hire and train to perform sorting activities. If FSIS finalizes the proposed NSIS, establishments choosing to operate under the NSIS will likely determine their line speeds based on the same factors that establishments considered when setting line speeds under HIMP for the past 16 years.

Establishments operating under HIMP have demonstrated that they are capable of consistently producing safe, wholesome, and unadulterated pork products while operating at these line speeds. Moreover, they have consistently met pathogen reduction and other performance standards when operating at the line speeds they established under HIMP. The proposed new inspection system was informed by the Agency's experience under HIMP and, as discussed later in this document, also incorporates additional measures that will apply to all swine slaughter establishments. These measures, which include testing for microbial organisms at pre-evisceration and post-chill, are designed to ensure that establishments maintain process control.

FSIS recognizes that evaluation of the effects of line speed on food safety should include the effects of line speed on establishment employee safety. FSIS compared in-establishment injury rates between HIMP and traditional establishments from 2002 to 2010. The preliminary analysis shows that HIMP establishments had lower mean injury rates than non-HIMP establishments. The analysis uses injury rate data by occupational injury estimates that are derived from the BLS annual Survey of Occupational Injuries and Illnesses (SOII) *http://www.bls.gov/iif/data.htm*). The survey captures data from Occupational Safety and Health Administration (OSHA) logs of workplace injuries and illnesses maintained by employers. Fifty-six FSIS inspected market hog slaughter establishments voluntarily submitted injury rate data to OSHA (approximately nine percent of all market hog slaughter establishments). From these 56 establishments, 27 low volume establishments were excluded, leaving 29 plants (5 HIMP and 24 Traditional). The low volume plants were excluded to provide a better comparison group of traditional plants because all HIMP plants are high volume plants. The results showed HIMP plants had a lower mean number of injuries using three OSHA injury rate measures: Total Case Rate (TCR), Days Away Transferred Restricted (DART), and Days Away From Work (DAFW). However, FSIS realizes that factors other than line speed may affect injury rates (*e.g.,* automation and number of sorters per line).

FSIS is requesting comments on the effects of faster line speeds on worker safety. Specifically, FSIS is requesting comments on whether line speeds for the NSIS should be set at the current regulatory limit of 1,106 hph or some other number. The Agency is also interested in comments on the availability of records or studies that contain data that OSHA or the National Institute for Occupational Safety and Health (NIOSH) may be able to use in analyzing the effects of increased line speed on the safety and health of employees throughout the establishment, including effects prior to and following the evisceration line. FSIS is also requesting comments on whether the Agency should maintain the 1,106 hph maximum line speed for establishments operating under NSIS but grant waivers from the maximum line speed to establishments that agree to work with the National Institute for Occupational Safety and Health NIOSH to evaluate the effects of waivers of line speed restrictions on employee health. FSIS is requesting comments on best practices and other measures that establishments can take to protect workers throughout the plant, including possible protective factors such as increasing the size of the workforce, rotating assignments, increased automation, or improved tools and techniques.

FSIS is proposing to require each establishment that operates under the NSIS to provide an annual attestation to the management member of the local FSIS circuit safety committee stating that the establishment maintains a program to monitor and document any work-related conditions that arise among establishment workers. The elements of this program would include:

(1) Policies to encourage early reporting of symptoms of work-related injuries and illnesses, and assurance that the establishment has no policies or programs intended to discourage the reporting of injuries and illnesses.

(2) Notification to employees of the nature and early symptoms of occupational illnesses and injuries, in a manner and language that workers can understand, including by posting in a conspicuous place or places where notices to employees are customarily posted, a copy of the FSIS/OSHA poster encouraging reporting and describing reportable signs and symptoms.

(3) Monitoring on a regular and routine basis of injury and illness logs, as well as nurse or medical office logs, workers' compensation data, and any other injury or illness information available.

FSIS is also proposing to create a new severability clause (proposed 9 CFR 310.28), which would state that should a court of competent jurisdiction hold any provision of the proposed worker safety attestation requirement (proposed 9 CFR 310.27) to be invalid, such action would not affect any other provision of 9 CFR parts 309 and 310.

As OSHA is the Federal agency with statutory and regulatory authority to promote workplace safety and health, FSIS would forward the annual attestations to OSHA for further review. OSHA, in turn, may use the information in the attestations in its own enforcement program. FSIS employees would not be responsible for determining the merit of the content of each establishment's monitoring program or enforcement of noncompliance with this section. FSIS would work with OSHA to develop the poster that establishments must display providing information on the signs and symptoms of occupational injuries and illnesses experienced by market hog slaughter workers, and about workers' rights to report these conditions without fear of retaliation.

IV. Other Proposed Changes That Affect All Swine Slaughter Establishments

A. Procedures To Address Enteric Pathogens, Fecal Material, Ingesta, and Milk Contamination as Hazards Reasonably Likely to Occur

In 1997, FSIS published a **Federal Register** document entitled ''Notice on complying with food safety standards under the HACCP system regulations'' (62 FR 63254, November 28, 1997). The

purpose of the document was to ensure that establishments understood the Agency's zero tolerance policy for visible fecal material as food safety hazards, as establishments prepared to comply with the then newly enacted HACCP system regulations. The document explained that under 9 CFR 310.18, establishments must handle livestock carcasses and carcass parts to prevent contamination with fecal material and promptly remove contamination if it occurs. Based on this regulation, FSIS enforces a zero tolerance policy for visible fecal contamination. Then, the document explained that ''to meet the zero tolerance standard, an establishment's [HACCP] controls must (among other things) include limits that ensure that no visible fecal material is present by the point of post-mortem inspection of livestock carcasses'' (citing 9 CFR 417.2(c)). Finally, the document explained that ''Under the HACCP system regulations, critical control points to eliminate contamination with visible fecal material are predictable and essential components of all slaughter establishments' HACCP plans.'' As a result, all swine slaughter establishments' HACCP plans currently include critical control points (CCPs) for preventing carcasses contaminated with visible fecal material at or after the final rail.

FSIS also enforces a zero tolerance policy for contamination by ingesta and milk because the microbial pathogens associated with ingesta and milk contamination are likely sources of potential food safety hazards in slaughter establishments. As mentioned above, the regulations require establishments to handle livestock carcasses and carcass parts to prevent contamination and promptly remove contamination if it occurs (9 CFR 310.18) The regulations also require that lactating mammary glands and diseased mammary glands of swine be removed without opening the milk ducts or sinuses because if pus or other objectionable material is permitted to come in contact with the carcass, the parts of the carcass are contaminated and must be removed and condemned (9 CFR 310.17). Because such contamination is largely preventable, most slaughter establishments already have in place procedures designed to prevent and remove ingesta and milk.

FSIS is now proposing to amend 9 CFR 310.18 to require swine slaughter establishments to develop, implement, and maintain as part of their HACCP systems, written procedures to ensure that no visible fecal material, ingesta, or milk is present by the point of post-mortem inspection of swine carcasses. Such a requirement would ensure that establishments maintain the records to verify that they have implemented the necessary measures and, when necessary, have taken appropriate corrective actions to prevent carcasses contaminated with visible fecal material, ingesta, or milk at or after the final rail.

Although the existing requirements for establishments to prevent visible fecal material, ingesta, or milk at or after the final rail, and the proposed requirement described above that establishments must have procedures addressing how they do so, are important safeguards, those safeguards would not be fully effective if an appropriate effort is not made to prevent contamination from occurring throughout the slaughter and dressing operation. Fecal material is a major vehicle for spreading pathogenic microorganisms, such as *Salmonella,* to raw pork products, and therefore, it is vital for establishments to maintain sanitary conditions and to prevent, to the maximum extent possible, contamination from occurring before slaughter and throughout the slaughter and dressing process.

Under HACCP, establishments are responsible for identifying food safety hazards that are reasonably likely to occur in the production process and for implementing preventive measures to control those hazards. Failure to implement preventive measures throughout the slaughter and dressing process can lead to the creation of insanitary conditions in the establishment and increases the potential for carcasses and parts to become contaminated with enteric pathogens, fecal material, ingesta, and milk. Interventions with chemical antimicrobials applied at the end of the process are less likely to be fully effective on carcasses that contain high levels of pathogens, and these chemical treatments are not effective in preventing insanitary conditions throughout the slaughter establishment.

To ensure that establishments implement appropriate measures to prevent carcasses from becoming contaminated with pathogens, and to ensure that both FSIS and establishments have the documentation they need to verify the effectiveness of these measures on an on-going basis, FSIS is proposing to require that all swine slaughter establishments develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk throughout the entire slaughter and dressing operation. FSIS is proposing that establishments incorporate these procedures into their HACCP systems and that they maintain records sufficient to document the implementation and monitoring of these procedures. These proposed requirements are necessary to fully implement the existing HACCP regulations.

Information that FSIS has collected from investigations it has conducted in establishments that have received a Notice of Intended Enforcement due to *Salmonella* serotypes linked to human illness demonstrate the need for establishments to adopt preventive measures to control contamination throughout the entire production process, as well as the need to maintain documentation to verify the effectiveness of those measures on an ongoing basis.

For example, FSIS conducted an investigation at a swine slaughter establishment that resulted in a Notice of Intended Enforcement after a State department of health conducted sampling and found the presence of *Salmonella* serotypes linked to human illness, and after FSIS requested a voluntary recall in 2015. FSIS reviewed the establishment's controls, and records associated with the establishment's sanitary dressing procedures and microbial interventions, and observed the establishment's implementation of these controls and procedures. The Agency's review found that the establishment had contamination of *Salmonella* throughout the slaughter process, including carcasses, environmental samples and pre-operational swabs. The cross contamination and failure to maintain sanitary procedures appeared to have overwhelmed any subsequent in-process interventions. FSIS determined that the establishment's HACCP system was inadequate due to multiple or recurring noncompliance (see 9 CFR 500.4(a)). If this rule becomes final, establishments may choose to incorporate measures to address the prevention of contamination by enteric pathogens and contaminants (*e.g.,* fecal, ingesta, and milk) into their procedures addressing how they prevent contamination from occurring during slaughter and dressing operations. Examples of such measures include: Sanitary dressing protocols, statistical process control programs, and sampling.

Under this proposed rule, establishments will be required to incorporate these procedures into HACCP systems, and to maintain on-going documentation to demonstrate that the procedures are effective. FSIS is

not proposing to prescribe the specific procedures that establishments must follow to prevent carcasses from becoming contaminated by enteric pathogens, fecal material, ingesta, or milk because the Agency believes that establishments should have the flexibility to implement the most appropriate measures that will best achieve the requirements of this proposed rule. However, on-going verification and documentation to demonstrate that an establishment's process controls are effective in preventing food safety hazards are critical components of the food safety system. FSIS believes that microbiological test results that represent levels of microbial contamination at key steps in the slaughter process are necessary for establishments to provide comprehensive, objective evidence to demonstrate that they are effectively preventing carcasses from becoming contaminated with pathogens before and after they enter the cooler.

In light of these changes, FSIS is proposing to rescind the generic *E. coli* testing requirements in 9 CFR 310.25 and to replace them with a new testing requirement that would provide establishments the flexibility to sample for other, potentially more useful indicator organisms. Under this proposal, establishments would continue to conduct sampling and analysis of carcasses for microbial organisms at the post-chill location, but in addition the Agency is proposing a second testing location at the pre-evisceration position in order to ensure establishments would be able to monitor the effectiveness of process control for enteric pathogens throughout the slaughter and dressing operation.

Under this proposed rule, instead of following a prescribed microbiological testing program, each establishment would be responsible for developing and implementing its own microbiological sampling plan, which would be required to include carcass sampling at pre-evisceration and post-chill. FSIS considers the microbial load of hog carcasses at pre-evisceration to be a valuable source of data about how well an establishment is taking into account the sanitary condition of live hogs coming to slaughter and the processing steps (*i.e.,* washing, dehairing) they implement to reduce the external contamination of the carcass prior to evisceration. Following a similar logic, FSIS considers the microbial characteristics of hog carcasses post-chill (after all processing steps have taken place) to be a valuable source of data about how well an establishment is minimizing contamination during chilling as well as the overall effectiveness of all process control interventions the establishment has chosen to apply throughout its production process. Because most establishments apply one or more interventions between the pre-evisceration and post-chill sampling points to help control microbiological hazards, FSIS would expect that a reduction in microbiological contamination between these two sampling points to be an indication of the effectiveness of those controls. The establishment would be responsible for determining which microbiological organisms would best help it to monitor the effectiveness of its process control procedures.

Because FSIS is proposing that establishments' microbiological sampling plans be part of their HACCP systems, all swine slaughter establishments would be required to provide scientific or technical documentation to support the judgments made in designing their sampling plans (see 9 CFR 417.4(a)). Under this proposal, establishments could develop sampling plans to test carcasses for enteric pathogens, such as *Salmonella,* at pre-evisceration and post chill, or they could test for an appropriate indicator organism. FSIS has developed draft sampling guidance to assist small and very small establishments in developing sampling plans that meet the Agency's expectations for testing designs and sampling frequency should this rule become final. FSIS has posted this draft compliance guide on its web page (*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index*) and is requesting comments on the guidance.

FSIS is proposing to prescribe a minimum frequency with which establishments would be required to collect two samples, one at pre-evisceration and one at post-chill, or, for very small and very low volume establishments, a single post-chill sample. Under the proposed rule, establishments, except for very small and very low volume establishments [10], would be required to collect samples at a frequency of once per 1,000 carcasses. Very small and very low volume establishments would be required to collect at least one sample during each week of operation each year. FSIS is proposing to allow very small and very low volume establishments to collect and analyze samples for microbial organisms at the post-chill point in the process only because these establishments typically are less automated and run at slower line speeds than larger establishments. The lower level of automation and the slower line speeds require less complicated measures for maintaining and monitoring process control on an ongoing basis. If, after consecutively collecting 13 weekly samples, very small and very low volume establishments can demonstrate that they are effectively maintaining process control, they can modify their sampling plans to collect samples less frequently. These proposed frequencies reflect the frequencies prescribed under the existing regulations for generic *E. coli* testing. In light of these changes, FSIS is proposing to remove the current requirement that swine establishments test carcasses for generic *E. coli* to monitor process control. FSIS is also proposing to eliminate the pathogen performance standards for market hogs in 9 CFR 310.25(b) because, as explained above, the codified standards are no longer in use.

FSIS is proposing to allow establishments to substitute alternative sampling locations if they are able to demonstrate that the alternative sampling locations provide a definite improvement in monitoring process control than at pre-evisceration and post-chill. FSIS is also proposing to allow establishments to substitute alternative sampling frequencies if they are able to demonstrate that the alternative is an integral part of the establishments' verification procedures for their HACCP plans.

This proposed rule does not mandate that establishments meet specific performance standards for microbial testing. Because establishments would be required to incorporate their procedures for preventing contamination by enteric pathogens and other contamination (*e.g.,* fecal material, ingesta, and milk) into their HACCP plans, or sanitation SOPs, or other prerequisite programs, establishments would be required to take appropriate corrective action when either the establishment or FSIS determines that the establishment's procedures are not effective in preventing carcass contamination throughout the entire slaughter and dressing process. Establishments would also need to routinely evaluate the effectiveness of their procedures in preventing carcass contamination.

[10] Very small establishments are establishments with fewer than 10 employees or annual sales of less than $2.5 million. Very low volume establishments annually slaughter no more than 20,000 swine, or a combination of swine and other livestock not exceeding 6,000 cattle and 20,000 total of all livestock.

Under this proposed rule, FSIS would verify the effectiveness of establishments' process control procedures in preventing carcasses from becoming contaminated with enteric pathogens, fecal material, ingesta, and milk by reviewing the establishments' monitoring records, including the establishments' microbial testing results, observing establishments implementing their procedures, and inspecting carcasses and parts for visible fecal, ingesta, and milk contamination when conducting both online carcass inspection and offline verification inspection procedures.

If inspection personnel determine that an establishment's process control procedures are not effective in preventing contamination by enteric pathogens, fecal material, ingesta, and milk, the Agency would take appropriate regulatory action to ensure that the establishment's production process is in control, and that product is not being adulterated. Such action could include performing additional visual inspections of products or equipment and facilities, increasing offline verification inspections, initiating Food Safety Assessments (FSAs), conducting hazard analysis verification procedures, and retaining or condemning product.

Finally, FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent contamination of the pre-operational environment by enteric pathogens. These procedures must include sampling and analysis of food-contact surfaces, reuse water, and equipment, including knives, in edible food production departments in the pre-operational environment for microbial organisms to ensure that the surfaces are sanitary and free of enteric pathogens. The sampling frequency must be adequate to monitor the establishment's ability to maintain sanitary conditions in the pre-operational environment. FSIS is proposing this environmental sampling requirement because in 2015, 152 people became ill after consumption of product produced at an establishment where FSIS found evidence during an investigation of insanitary conditions, including, but not limited to, tables and knives in the pre-operational environment that were contaminated with *Salmonella.* The proposed environmental sampling requirement would reduce the risk of cross-contamination from insanitary conditions in the pre-operational environment. FSIS is requesting comments on this proposed environmental sampling requirement. The proposed environmental sampling does not specifically include lairage (*e.g.,* holding pens for live swine) although scientific literature conclusively shows that contamination occurs in this area of the establishment. FSIS is also asking for comments on how to ensure that lairage does not contribute to insanitary conditions.

V. Implementation

If this proposed rule becomes final, establishments interested in NSIS would need to notify FSIS in writing of their intent to operate under the new inspection system. The Agency is also considering establishing separate applicability dates for large, small, and very small establishments to comply with the proposed regulations that prescribe procedures for controlling visible fecal, ingesta, and milk contamination; the regulations that prescribe procedures for controlling contamination throughout the slaughter and dressing process; and the regulations that prescribe recordkeeping requirements. The applicability dates would provide additional time for small and very small establishments to comply with these provisions. The Agency is requesting comments on its proposed implementation plan, especially the phased in applicability dates for the proposed provisions in the rule that prescribe requirements for all swine slaughter establishments.

VI. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been designated a ''significant'' regulatory action under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget under Executive Order (E.O.) 12866.

A. Request for Comments Summary

FSIS is requesting comments on:

1. Whether or not the Agency should require establishments under NSIS to specify in their records the reason that the animals were removed from slaughter and how this information should be collected.

2. The draft compliance guides.

3. Whether or not the Agency should allow establishments that operate under the proposed NSIS to use discretion when deciding, on a lot-by-lot basis, whether or not to incise mandibular lymph nodes and palpate the viscera to detect the presence of animal diseases (*e.g.,* M. Avium) if they submit documentation to FSIS supporting that the presence of M. Avium is not likely to occur, such as records documenting their on-farm controls.

4. The effects of faster line speeds on worker safety.

a. Whether line speeds for the NSIS should be set at the current regulatory limit of 1,106 hph or some other number.

b. The availability of records or studies that contain data that FSIS may be able to use in analyzing the effects of increased line speed on the safety and health of employees throughout the establishment, including effects prior to and following the evisceration line.

c. Whether the Agency should maintain the 1,106 hph maximum line speed for establishments operating under NSIS but grant waivers from the maximum line speed to establishments that agree to work with the National Institute for Occupational Safety and Health to evaluate the effects of waivers of line speed restrictions on employee health.

5. The proposed sampling requirements, especially the environmental sampling requirement.

6. The proposed implementation plan, especially the phased in applicability dates for the proposed provisions in the rule that prescribe requirements for all swine slaughter establishments.

In addition, FSIS is requesting the following data to further inform its consideration of the proposed rule. Further discussions of these requests are provided in their corresponding sections.

1. Are very small establishments that exclusively slaughter market hogs likely to convert to the NSIS?

2. How soon do establishments plan on adopting the NSIS?

3. Depending on establishment size, how many additional establishment employees would the NSIS system require?

4. What are the capital costs for establishments associated with the NSIS?

5. How long will it take establishment personnel such as a quality technician to collect, record, and analyze data required to verify that an

establishment's products meet the definition of RTC?

6. How many swine establishments have written sanitary dressing plans?

7. How many establishment employees perform sanitary dressing tasks in a swine slaughter establishment?

8. How many establishments conduct generic *E. coli* sampling at an alternative frequency?

9. What are the alternative frequencies at which establishments are conducting process control sampling?

10. How will changes in line speeds affect market hog prices, establishment hours of production, consumer prices, and export volumes?

B. Need for the Rule

The swine slaughter industry in the U.S. has evolved since the advent of the current swine inspection regulations used by the FSIS. Many of today's producers have invested in farm to table quality and food safety controls that effectively address health risks and consumer quality issues.[11] For these producers, the prescriptive nature of some FSIS regulations inhibits efficient production, and the adoption of improved production methods, and restricts their ability to adopt new technologies. Further, adherence to current regulations at large and high volume establishments that exclusively slaughter market hogs prevents FSIS from efficiently allocating resources, which inhibits food safety improvements and humane handling hazard prevention. Therefore, while traditional inspection is generally sufficient for low volume establishments and for establishments that slaughter classes of swine other than market hogs, a modernized swine slaughter inspection system, one that is less prescriptive, creates incentives for establishments to develop and invest in food quality controls and safety procedures, and allows FSIS to improve inspection methods, is needed.

Baseline

C. Overview of the Market

U.S. pork production has increased at a moderate pace as seen in Table 2. Much of the additional growth in domestic production has been used to satisfy increasing export demands, which increased 88 percent between 2005 and 2015.[12] According to the Food and Agricultural Organization, pork is consistently ranked as the top meat in per-capita consumption worldwide[13] and is ranked third in the United States.[14]

TABLE 2—U.S. PORK SUPPLY AND DEMAND

Year	U.S. production *	Imports *	Exports *	Domestic consumption *	Per capita consumption **
2005	20,705	1,024	2,666	19,093	65
2006	21,074	990	2,995	19,055	64
2007	21,962	968	3,141	19,763	66
2008	23,367	832	4,651	19,431	64
2009	23,020	834	4,094	19,869	65
2010	22,456	859	4,223	19,077	62
2011	22,775	803	5,196	18,382	59
2012	23,268	802	5,379	18,607	59
2013	23,204	880	4,986	19,105	60
2014	22,858	1,011	5,092	18,836	59
2015	24,517	1,116	5,009	20,593	64

* Measured in carcass weight, million pounds.
** Measured in carcass weight, pounds.
Source: USDA ERS Livestock and Meat Domestic Data. *http://www.ers.usda.gov/data-products/livestock-meat-domestic-data.aspx#26105* accessed on 11/29/16. Last updated on 10/27/16.

In 2016, there were approximately 612 swine slaughter establishments under Federal Inspection, Table 3.[15] Combined, these establishments process roughly 118 million hogs annually. FSIS divides these swine into the following production categories for data collection: Roaster swine, market hog, sow, and boar/stag. Today, the majority (96%) of the pork products available in the market are derived from market hogs.[16]

TABLE 3—NUMBER OF SWINE SLAUGHTER ESTABLISHMENTS BY SIZE, 2016

HACCP processing size	Number of establishments	Total swine slaughter (head count)	Total market hog slaughter (head count)	Percent market hog
Large	28	105,678,519	105,321,950	99.66
Small	105	11,862,341	8,497,891	71.64
Very Small *	479	903,009	625,863	69.31
Total	612	118,443,869	114,445,704	96.62

Source: Public Health Information System (PHIS)
* Two establishments classified as N/A were included in the category total for Very Small establishments.

[11] Key, Nigel and William McBride. 2007. The Changing Economics of U.S. Hog Production. USDA ERS. Report No. 52.

[12] USDA ERS Livestock and Meat Domestic Data. *http://www.ers.usda.gov/data-products/livestock-meat-domestic-data.aspx#26105*. Accessed on 12/2/15. Last updated on 11/30/15.

[13] FAO Livestock commodities. *http://www.fao.org/docrep/005/y4252e/y4252e05b.htm*. Accessed on 11/29/16.

[14] USDA ERS Livestock and Meat Domestic Data. *http://www.ers.usda.gov/data-products/livestock-meat-domestic-data.aspx#26105*. Accessed on 11/29/16. Last updated on 10/27/16.

[15] USDA, FSIS, Public Health Information System (PHIS).

[16] Source: PHIS.

As shown below in Table 4, many establishments now exclusively slaughter market hog, a species sub class which due to technological and managerial improvements, such as improved genetics, nutrition, and medical services, generally presents fewer food safety and quality issues.[17]

D. Overview of the Proposed Rule's NSIS

Eight of the proposed rule's provisions apply to only those establishments that voluntarily participate in the NSIS. Meeting these provisions will likely increase an establishment's labor and training costs. Additionally, only market hogs are eligible to participate in the NSIS. Due to these economic constraints discussed above, we expect that only large and small high volume establishments that exclusively slaughter market hogs would voluntarily participate in the NSIS. In 2016 there were 40 high volume establishments that exclusively slaughter market hogs, 27 large [18] (5 HIMP + 22 non-HIMP) [19] and 13 small establishments, Table 4. These establishments account for 92 percent of total swine slaughter, Table 4. Given their large share of the market and the ability to slaughter a sufficient amount of market hogs to justify the likely costs associated with NSIS, these establishments are expected to voluntarily implement the proposed NSIS. Therefore, this analysis calculates the costs and benefits associated with the voluntary provisions for these 40 market hog establishments. However, because the 5 HIMP establishments are already practicing the proposed NSIS methods, they are not expected to incur any additional new costs nor contribute to any increase in quantified benefits associated with adopting the NSIS.

TABLE 4—HEAD COUNT DISTRIBUTION ACROSS TYPES OF ESTABLISHMENTS, 2016

Type of establishment	HACCP size	Number of establishments	Total swine slaughter (head count)	Percent of total head count
High Volume Market Hog Only	Large—HIMP	5	17,517,254	14.79
	Large—Non-HIMP	22	87,746,770	74.08
	Small	13	4,617,680	3.90
Low Volume Market Hog Only	Very Small	71	32,360	0.03
Mix of Species and Swine Sub Classes	Large/Small	93	7,659,156	6.47
	Very Small	408	870,649	0.74
Grand Totals		612	118,443,869	

* HACCP sizes were combined so as to not reveal proprietary information.
Source: PHIS.

E. Overview of the Proposed Rule's Mandatory Components

All swine slaughter establishments would need to comply with the three mandatory provisions of the proposed rule, which are described in more detail in section *IV. A.*

1. Written Sanitary Dressing Plans

FSIS is proposing to amend 9 CFR 310.18 to require swine slaughter establishments to develop, implement, and maintain as part of their HACCP systems, written procedures to ensure that no visible fecal material, ingesta, or milk is present by the point of post-mortem inspection of swine carcasses. This requirement would address a weakness of the current inspection system, which is that verification checks performed at the end of the slaughter and chilling process encourage industry to focus its activities on post-process interventions to reduce contamination rather than prevention throughout the slaughter process. Prevention throughout the slaughter process is preferred because it promotes containing contamination close to its origin, which reduces cross contamination of multiple carcasses. The existing regulations require that establishments prevent swine carcasses contaminated with visible fecal contamination from entering the cooler. While preventing swine carcasses contaminated with visible fecal material from entering the chiller is an important safeguard for reducing the prevalence of pathogens on swine carcasses, this result generally cannot be effectively accomplished unless establishments implement appropriate measures to prevent contamination from occurring throughout the slaughter and dressing operation and implement process controls for them. Requiring establishments to keep daily written records to document the implementation and monitoring of their process control procedures is a positive step forward for public health. This ongoing documentation will allow both the establishment and FSIS to identify specific points in the production process where a lack of process control may have resulted in product contamination or insanitary conditions. This will allow the establishment to take the necessary corrective action to prevent further product contamination. FSIS seeks comment on the extent to which written sanitary dressing plans are necessary for ensuring that existing process controls are effective.

While many establishments may already have written sanitary dressing plans, due to data limitations, this analysis assumes that every establishment will need to develop a written sanitary dressing plan. This assumption will help ensure a conservative estimate. Ongoing sanitary dressing documentation will allow both the establishment and FSIS to identify specific points in the production process where a lack of process control may have resulted in product contamination or insanitary conditions.

2. Process Control Sampling and Analysis for Microbial Organisms

Under this proposed rule, instead of following a prescribed microbiological testing program, each establishment would be responsible for developing and implementing its own microbiological sampling plan, which would be required to include carcass sampling at pre-evisceration and post-chill. Current microbiological standards

[17] Key, Nigel and William McBride. 2007. The Changing Economics of U.S. Hog Production. USDA ERS. Report No. 52.

[18] HACCP size: Very Small Establishment—Less than 10 employees or less than $2.5 million in annual sales; Small Establishment—10–499 employees; Large Establishment—500 or more employees.

[19] In 2016 there was 1 large establishment that did not exclusively slaughter market hogs.

prescribe that all establishments monitor process control by sampling for generic *E. coli.* High volume establishments are required to take one sample per 1,000 carcasses, or request an alternative rate. The Agency is seeking comment on both the number of establishments conducting alternative sampling rates and approved alternative sampling rates. Very low volume establishments are required to take 1 sample per week of operation up to 13 times a year. An industry survey found that many establishments elect to perform other microbiological tests in addition to testing for generic *E. coli.*[20]

3. Environmental Sampling

FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent contamination of the pre-operational environment by enteric pathogens.

Such procedures must be incorporated into an establishment's HACCP, sanitation SOP, or other prerequisite program. This analysis assumes an establishment will incorporate its procedures for controlling contamination in the pre-operational environment into its sanitation SOP. These procedures must include sampling and analysis of food contact surfaces in the pre-operational environment at a frequency adequate to monitor the establishment's ability to maintain sanitary conditions in the pre-operational environment.

F. Overview of the Proposed Rule's Agency Impact

This analysis also takes into consideration potential impacts to the Agency's budget, which is expected to be impacted by changes in staffing and training requirements. Under traditional inspection, each slaughter line requires up to 11 full time positions. Generally, these positions include both a supervisory and non-supervisory Public Health Veterinarian, PHV (OPM Veterinary Medical Science Series, 0701), a supervisory and non-supervisory consumer safety inspector, CSI (OPM Consumer Safety Inspection Series, 1862), and up to 7 Food Inspectors, FI (OPM Food Inspection Series, 1863). There are currently 418 full time equivalent units (FTE) assigned to slaughter inspection at the 22 large non-HIMP (27 large—5 HIMP) and 13 small establishments expected to convert to NSIS, Table 5. When these establishments convert to NSIS, Agency personnel will require NSIS training. Additionally, the number of Agency personnel required to inspect the slaughter process will likely change, see Agency Staffing section for details.

TABLE 5—CURRENT FSIS SLAUGHTER LINE POSITIONS AT NON-HIMP FACILITIES THAT SLAUGHTER EXCLUSIVELY MARKET HOGS

OPM job code	Number of positions
1862	120
1863	245
701	53
Total	418

Source: PHIS.

G. Expected Cost of the Proposed Rule

1. Associated With the NSIS Components of the Rule

This analysis estimates the cost associated with the proposed rule's NSIS components. The Agency assumes that 22 large high volume and 13 small high volume establishments, that have a history of exclusively slaughtering market hogs, will adopt the NSIS portions of the rule. These 35 establishments have similar characteristics as the 5 HIMP establishments, such as volume and sub species slaughtered. Given the successful participation of the 5 HIMP establishments in the pilot program and industry's continued interest in increasing the number of establishments participating in the HIMP pilot, the benefits from adopting NSIS are expected to outweigh the costs. This analysis assumes that very small establishments that exclusively slaughter market hogs do not have a high enough production volume to justify incurring the costs of converting to the NSIS. The Agency is seeking comment on this assumption. While the 5 HIMP establishments are expected to adopt the NSIS, they have already implemented the proposed changes associated with the NSIS by their participation in the HIMP program and are not expected to incur any new or additional expenses. As such, they are not included in the group of establishments expected to incur an increase in costs associated with NSIS. This analysis excludes further consideration in the Preliminary Regulatory Impact Analysis of the costs of submitting an attestation of work related conditions due to its small expected cost.[21] Costs examined generally fall under three categories: Labor, capital expenses, and developing written procedures.

In the following sections, this analysis presents the costs and benefits that would be generated over a range of assumptions with respect to how much of the industry chooses to adopt the NSIS within five years. As was done with the NPIS, this analysis assumes a 5-year adoption period with roughly consistent annual adoption rates. These estimates are scaled for an illustrative calculation and assume that 35 of the 40 establishments which are likely to adopt the NSIS will incur additional costs associated with adoption. The Agency is seeking comment on this assumption. Note, the 5 HIMP establishments are not expected to incur any additional costs associated with adopting the NSIS and are therefore excluded from this portion. Also, based on actual NPIS adoption rates thus far, the assumptions presented in this analysis may be an overestimate of adoption of NSIS.

TABLE 6—NSIS ADOPTION RATE

Year	Total number of establishments adopted		Percent adopted
	Large	Small	
1	4	2	17
2	8	4	34
3	12	7	54
4	17	10	77

[20] Viator C. et al. 2015. (a) Meat Industry Survey in Support of Public Health Risk-Based Inspection. P5–42. Question 3.1.

[21] It was estimated that submitting such an attestation would require a Quality Control Technician with a labor compensation rate of $68.52 per hour, 2 minutes per year. Combined, submitting an annual attestation would cost all 28 large and 13 small establishments approximately $93.64 annually (2 minutes * $68.52 per hour * 41).

TABLE 6—NSIS ADOPTION RATE—Continued

Year	Total number of establishments adopted		Percent adopted
	Large	Small	
5	22	13	100

a. Costs of Additional Establishment Workers

This analysis expects establishments operating under NSIS to experience an increase in labor costs. Under NSIS, establishments will be required to dedicate labor to sort and remove unfit animals before ante-mortem inspection and trim; identify defects, such as dressing defects, contamination, and pathology defects, on carcasses and parts before post-mortem inspection; ensure product is presented to Agency inspectors in an appropriate manner; identify carcasses condemned on ante-mortem inspection; denature all major portions of condemned carcasses on-site; maintain records to document the number of animals condemned on ante-mortem inspection; and notify Agency inspectors if they suspect that an animal or carcass has a reportable or foreign animal disease, while conducting sorting activities. Based on observations [22] of HIMP establishments, this increase in work is expected to require an increase in labor demand ranging from 6–10 additional workers per line per shift at large establishments. This analysis assumes each large establishment that converts to the NSIS will require 9 additional workers per line per shift. Due to data limitations, this analysis assumes small establishments that convert to the NSIS will require 1 additional worker per line per shift. The Agency seeks comment on the number of additional employees each establishment will require due to the NSIS. Costs associated with this labor fall into 3 categories: Wages and benefits, training, and continuing education.

Establishment Labor Wage Increases

Many of the 22 large and 13 small non-HIMP market hog establishments that are assumed will adopt NSIS operate multiple lines and shifts. Taking these multiple lines and shifts into consideration, the number of industry positions is expected to increase by 383. The majority of these, 369, are attributable to the large establishments (41 (number of lines) × 9),[23] Table 7. The remaining 14 positions are attributable to the small establishments (14 (number of lines) × 1),[24] Table 7. According to the Bureau of Labor Statistics (BLS) the expected hourly wage for a Slaughter and Meat Packer occupation (''production employee'') is $13.00.[25] A benefits and overhead factor of two was then used to estimate the total labor costs. The total hourly labor costs to industry for a production employee including benefits and overhead, is $26.00 per hour ($13.00 × 2).[26] Based on data obtained through PHIS, the average large establishment slaughters swine 269 days annually. Assuming workers work 8 hour shifts, the total annual remuneration cost to these 22 large establishments is approximately $20.65 million, (369 × $26.00 × 269 × 8), Table 7. The average small establishment slaughters on 244 days annually. Again, assuming workers work 8 hour shifts, the total annual remuneration cost to these 13 small establishments is approximately $0.71 million, (14 × $26.00 × 244 × 8), Table 7. These cost estimates take into consideration the fact that some establishments operate multiple lines and multiple shifts.

Training Online Sorters and Carcass-Inspection Helpers

Establishments are expected to incur costs associated with initially training employees to fill these positions, annual replacement training, and continuing education training. This analysis assumes the cost to train online sorters and carcass-inspection helpers are similar to the costs of training production employees in HACCP, which range from $274 to $823 with a midpoint average of $549 per new employee.[27] To ensure a conservative estimate and account for employee rotation patterns as well as leave, FSIS assumes that establishments will train 4 employees for each new position. Under these assumptions, large establishments will need to train approximately 1,476 (369 × 4) employees, while small establishments will need to train approximately 56 (14 × 4) employees. The cost of this training ranges from $419,768 to $1,260,836, with a midpoint estimate of $0.84 million (1,532 * $549), Table 7.

To account for expected turnover of establishment employees, FSIS projects that establishments will have to train approximately 452 (1,532 × 0.295) replacement employees annually, 435 at the large and 17 at the small establishments.[28] The additional annual training cost for new employees is expected to also be similar to the costs of HACCP training. Therefore, FSIS estimates the combined annual training costs due to turnover to be approximately $0.25 million (452 × $549), with large establishments accounting for approximately $0.24 million (435 × $549) and small establishments accounting for approximately $9,333 (17 × $549), Table 7.

FSIS assumes that 1,080 (1,532 × 0.705) retained employees, 1,041 at the large and 39 at the small establishments, will require annual continuing education. This analysis assumes annual continuing education costs to be similar to annual HACCP refresher training costs, which range from $12 to $36, with a mid-point of $24.[29] Using the mid-point value, this analysis estimates the combined average recurring cost for continuing education is $25,920 (1,080 × $24), with large establishments accounting for

[22] Observations were obtained through a survey conducted, in February 2016, through the Salmonella Initiative Program and conversations with industry at a meeting, which took place in February 2016, with the North American Meat Institute.

[23] Source: PHIS.

[24] Source: PHIS.

[25] BLS Occupational Employment Statistics, Occupational Employment and Wages, May 2016. 51–3023 Slaughters and Meat Packers *http://www.bls.gov/oes/current/oes513023.htm* accessed on 7/24/17. Last modified 3/31/17.

[26] To be consistent with analyses done by the Department of Health and Human Services, this analysis accounts for fringe benefits and overhead by multiplying wages by a factor of 2.

[27] Viator. C. et al. 2015. (b) Costs of Food Safety Investments. Table 4–4. Training Costs for Management and Production Employees.

[28] This estimate was rounded up. This analysis uses the industry turnover rate for non-durable manufactured goods to estimate separations. Source: BLS Economic News Release Table 16. Annual total separations rates by industry and region, not seasonally adjusted. *http://www.bls.gov/news.release/jolts.t16.htm.* Accessed on 7/21/17. Last updated on 3/16/17.

[29] Viator. C. *et al.* 2015. (b) Table 4–4. Training Costs for Management and Production Employees.

approximately $24,984 (1,041 × $24) and small establishments accounting for approximately $936 (39 × 24).

Under the assumed adoption rate as set forth in Table 6, annualized wages and training cost to industry for staffing additional online personnel is approximately $16.45 million, applying a 3 percent discount rate over 10 years, Table 7. The majority of this cost is attributed to wages and benefits, Table 7.

TABLE 7—ESTABLISHMENT LABOR COSTS

[M$]

Type of establishment	Type of expense	Number of personnel	One-Time cost	Recurring cost
Large	Wages	369		$20.65
	Initial Training	1,476	0.81	
	Training Due to Labor Turnover	435		0.24
	Continuing Education	1,041		0.02
Small	Wages	14		0.71
	Initial Training	56	0.03	
	Training Due to Labor Turnover	17		0.009
	Continuing Education	39		0.03
Totals:				
One-Time				0.84
Recurring Cost				21.66
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				16.62
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				15.99

b. Costs of Capital Improvements: Line Configuration and Inspection Stations

As proposed, participating in NSIS does not necessitate capital improvements. As such, this analysis does not include capital expenditures. However, if establishments believe that capital expenditures would result in a benefit they may voluntarily reconfigure or update their facilities so as to fully capture all the potential production efficiencies offered through participation in NSIS. Examples of such changes include line reconfiguration, which can cost between $10,000 to $250,000,[30] and the creation of an inspection station, which can cost between $5,000 and $6,000.[31] Establishments may reduce these costs by coordinating these facility updates with previously planned establishment renovations. The Agency is seeking comment on both the required and voluntary capital costs associated with the NSIS.

c. Costs of Developing Ante-Mortem Written Procedures

Under the proposed rule, establishments operating under NSIS are required to develop and maintain in their HACCP systems (HACCP plans, Sanitation Standard Operating Procedures, sanitation SOPs, or other prerequisite programs) written procedures for the segregation, identification, and disposition of animals suspected of having one of the condemnable generalized diseases or conditions listed in 9 CFR 309. This analysis assumes establishments will coordinate this work and costs with the development of written procedures to prevent the contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk throughout the entire slaughter and dressing operation, a mandatory component of the proposed rule. Details of these costs can be found in the sanitary dressing costs section VI.2.a.

d. Ready-To-Cook Pork Standards

As proposed, establishments operating under NSIS are required to collect, record, and analyze documentation to demonstrate that the products resulting from their slaughter operation meet the proposed definition of RTC pork products. While the Agency is seeking comment on this requirement, this analysis estimates the labor costs to conduct such documentation under two assumptions. First, FSIS assumes that establishments would assign the task to a quality control technician, QC, with an hourly compensation rate, which included wages, benefits, and overhead, of $68.52.[32] Second, FSIS assumes that this work would take 1 hour at a large establishment and ½ hour at a small establishment. The Agency is seeking comment on this assumption. Based on information obtained through PHIS, the average large establishment operates 269 days per year. This equates to an annual cost of approximately $18,432 (268 * 1 * $68.52), or approximately $0.41 million for all 22 establishments ($18,432 * 22). Similarly, the cost to an average small establishment, which based on data obtained through PHIS operates 244 days a year, is approximately $8,359 (244 * 0.5 * $68.52), or approximately $0.11 million for all 13 small establishments ($8,359 * 13). Combined, under the assumed adoption rate as set forth in Table 6, these costs are expected to increase NSIS establishments' annual labor costs by approximately $0.39 million, applying a 3 percent discount rate over 10 years, Table 8.

[30] In a May 2004 study, ERS estimated the cost of compliance per establishment with PR/HACCP rule. Capital expenditures in Hog Slaughter establishments were estimated to be $251,800. Ollinger, Michael, Danna Moore, Ram Chandran (2004). Meat and Poultry Establishments' Food Safety Investments. USDA, Economic Research.

[31] Modernization of Poultry Slaughter Inspection; Final Rule, 79 FR. 49566 (2014).

[32] To be consistent with analyses done by the Department of Health and Human Services, this analysis accounts for fringe benefits and overhead by multiplying wages by a factor of 2.

TABLE 8—COST OF RTC REQUIREMENTS

[M$]

Type of market hog only establishment	Number of establishments	Recurring
		Labor
Large	22	$0.41
Small	13	0.11
Totals:		
Recurring Cost		0.51
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years		0.39
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years		0.38

2. Costs Associated With the Mandatory Components of the Rule

The mandatory costs of the proposed rule are expected to apply to all 612 swine slaughter establishments and begin within the first year after the rule is finalized. These costs are associated with (a) establishing and implementing written sanitary dressing plans to prevent contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk, throughout the entire slaughter and dressing operation; (b) modernizing process control sampling programs for microbial organisms; and (c) sampling the slaughter environment for microbiological contamination.

a. Costs of Developing, Composing, Training, Monitoring, Recording, and Verifying Written Sanitary Dressing Plans

Under the mandatory portion of the proposed rule affecting all federally inspected establishments that slaughter swine, FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent the contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk throughout the entire slaughter and dressing operation. This cost component includes: (1) Developing these procedures into their food safety system, (2) training, and (3) monitoring, recordkeeping, and verification.

Developing and Composing

FSIS assumes incorporating written sanitary dressing plans into an establishment's HACCP system will result in a one-time HACCP plan reassessment cost. According to the Research Triangle Institute's (RTI) Costs of Food Safety Investments report,[33] the mid-point costs of a HACCP plan reassessment for large establishments is $730, the mid-point costs for small and very small establishments is $365.[34] To ensure a conservative cost estimate, this analysis assumes all 612 swine establishments will incur this cost. The Agency is seeking comment on this assumption. The cost to all large establishments is approximately $20,440 (28 * $730), small establishments is approximately $38,325 (105 * $365), and very small establishments is approximately $174,835 (479 * $365). The annualized costs to industry with a 3 percent discount rate for all 612 swine slaughter establishments is approximately $0.03 million, Table 9.

TABLE 9—WRITTEN SANITARY DRESSING PLAN DEVELOPMENT

[M$]

HACCP size	Number of plants	One-time cost
Large	28	$0.02
Small	105	0.04
Very Small	479	0.17
Totals:		
One-Time Cost		0.23
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years		0.03
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years		0.03

Training

Training programs should be utilized to ensure that establishment personnel understand and can execute the sanitary dressing plan. This training includes a one-time initial training cost to the establishment, a recurring cost of training new hires due to separations, and the cost of conducting annual refresher training. This portion of the model is informed by the RTI Costs of Food Safety Investments Report.[35] As is noted in the RTI report, these costs are based on the amount of time a panel of experts recommends establishments spend on training, which may exceed the amount of time establishments actually spend on training. Due to data limitations, this analysis assumes the number of establishment employees

[33] Viator. C. et al. 2015. (b) RTI International collected data on the cost of food safety investments for the production of meat and poultry products at the pre-harvest and slaughter and processing stages. This data was provided to FSIS in a final report titled 'Costs of Food Safety Investments' and was prepared by Catherine L. Viator, Mary K. Muth, and Jenna E. Brophy. The contract number is No. AG–3A94–B–3–0003. The order number is AG–3A94–K–14–0056.

[34] Viator. C. et al. 2015. (b) Table 4–2. Costs of Sanitation SOP Plan Development, Validation and Reassessment.

[35] Viator, C. et al. 2015. (b).

conducting sanitary dressing tasks at swine establishments is equal to the number of employees conducting sanitary dressing tasks at beef slaughter establishments.[36] This is likely an overestimate because unlike beef, the majority of swine are scalded, de-haired, and polished prior to opening the carcass, which decreases the need for employees to conduct sanitary dressing tasks. The Agency is seeking comment on this assumption.

As seen in Table 10, costs are shared across HACCP sizes, with large establishments incurring higher costs. The rate of new hires, 29.5 percent, is derived from the Bureau of Labor Statistics', BLS, 2016 turnover rate for non-durable manufacturing goods.[37] Likewise, the retention rate for the refresher training is one minus the turnover rate. The total one-time cost to train the employees for all 612 establishments is roughly $1.13 million, while the total recurring costs is roughly $0.49 million, Table 10. The annualized costs with a 3 percent discount rate over 10 years for Sanitary Dressing task related training is $0.62 million, Table 10.

TABLE 10—SANITARY DRESSING TRAINING COSTS

[M$]

HACCP size	Number of establishments	Average number of employees	Training costs		
			One-time	Recurring	
			Initial	New hires	Refresher
Large	28	179	$0.61	$0.18	$0.09
Small	105	25	0.32	0.09	0.04
Very Small	479	3	0.20	0.06	0.03
Totals:					
One-Time Cost					1.13
Recurring Cost					0.49
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years					0.62
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years					0.64

Monitoring, Recordkeeping, and Verification

This analysis also measures the annual monitoring, recordkeeping and verification costs associated with maintaining sanitary dressing procedures. Similar to the Modernization of Poultry Slaughter Inspection Final Rule,[38] this analysis assumes it will take a production employee 5 minutes to monitor and 5 minutes to maintain records for the sanitary dressing procedures, for a total of 10 minutes. Establishments are expected to verify the plan each day of production. In addition, this analysis assumes it will take a QC manager 15 minutes to perform a verification task and that such task will be completed each week that slaughter takes place. Combined, these tasks are estimated to cost the entire industry roughly $0.85 million annually, applying a 3 percent discount rate over 10 years, Table 11.

TABLE 11—MONITORING, RECORD KEEPING AND VERIFICATION COSTS

[M$]

HACCP Size	Recurring costs			
	Monitoring	Record keeping	Verification	Combined
Large	$0.016	$0.02	$0.04	$0.07
Small	0.038	0.04	0.12	0.20
Very Small	0.070	0.07	0.44	0.58
Totals:				
Recurring Cost				0.85
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				0.85
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				0.85

Summary Cost of Written Sanitary Dressing Procedures

Table 12 provides an overview of the one-time and recurring costs associated with requiring all establishments to develop written sanitary dressing procedures. Combined, these tasks are expected to cost the industry $1.50 million annualized, assuming a 3 percent discount rate over 10 years, Table 12.

[36] The Survey is at *http://www.fsis.usda.gov/wps/wcm/connect/184a3baa-2f73-4651-8aba-68124580f4e0/Pathogen_Controls_in_Beef_Operations_Survey.pdf?MOD=AJPERES.* The survey report is at: *[http://www.fsis.usda.gov/wps/wcm/connect/6d37a1fc-a3e1-40b6-90cc-719bdb391522/STEC_Survey_Comments_Summary.pdf?MOD=AJPERES].*

[37] This analysis uses the industry turnover rate for non-durable manufactured goods to estimate. Source: BLS Economic News Release Table 16. Annual total separations rates by industry and region, not seasonally adjusted. <*http://www.bls.gov/news.release/jolts.t16.htm*> Accessed on 7/21/17. Last updated on 3/16/17.

[38] 79 FR 49566–49637, August 21, 2014.

TABLE 12—SUMMARY OF COSTS ASSOCIATED WITH REQUIRING WRITTEN SANITARY DRESSING PROCEDURES

[M$]

HACCP size	Number of establishments	One-time costs		Recurring costs	
		Development	Initial training	Training	Monitoring, recording, validating
Large	28	$0.02	$0.61	$0.27	$0.07
Small	105	0.04	0.32	0.14	0.20
Very Small	479	0.17	0.20	0.09	0.58
Totals:					
One-Time Cost					1.36
Recurring Cost					1.34
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years					1.50
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years					1.53

b. Process Control Sampling and Analysis for Microbial Organisms

This section reviews the expected changes in costs associated with the proposed alterations to microorganism process control verification. These costs are limited to the changes associated with removing the requirement that swine establishments test carcasses for generic *E. coli* and replacing them with new testing requirements described above. While the proposed rule also removes the codified *Salmonella* pathogen reduction performance standards for swine, because the codified standards are already no longer in use, there are no expected costs or benefits to industry. Such changes fall under four categories: Sampling plan reassessment, transferring from prescriptive to process testing requirements, sampling rates, and sample recordkeeping. This analysis uses results from the RTI International Meat Industry Survey in Support of Public Health Risk-Based Inspection report [39] and Costs of Food Safety Investments report.[40] Each of these categories is explained in detail below.

Process Control Sampling Plan Reassessment

This analysis assumes establishments will incur one-time costs of conducting a process control sample plan reassessment under the proposed 9 CFR 310.25(a)(2)(i). The RTI Costs of Food Safety Investment report estimates the costs of reassessing a microbiological sampling plan. For large establishments, these costs include labor, consultant fees, and travel expenses, which combined range from $27,320 to $81,960, with a midpoint of $54,640 per establishment. Costs to small and very small establishments are limited to labor expenses and range from $122 to $365, with a midpoint of $243 per establishment.[41] The annualized reassessment cost to industry is roughly $0.19 million, assuming a 3 percent discount rate over 10 years, Table 13.

TABLE 13—COSTS OF PROCESS CONTROL SAMPLING PLAN REASSESSMENT

[M$]

HACCP size	Number of establishments	Per establishment (mid-point estimate) *	Total one-time costs
Large	28	$0.05	$1.53
Small	105	243	0.03
Very Small	479	243	0.12
Totals:			
One-Time Cost			1.67
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			0.19
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			0.22

* The values for Small and Very Small Establishments are in dollars.

Transferring From Prescriptive To Process Testing Requirements

Current regulation prescribes that each slaughter facility will test for generic *E. coli*.[42] In addition to mandated generic *E. coli* testing, many establishments voluntarily conduct additional microbiological testing to verify process control. Common microbiologic tests include aerobic plate count (APC), total plate count (TPC), and total coliforms. Based on the meat slaughter survey conducted by RTI, roughly 71 percent of very small, 80 percent of small, and 100 percent of large establishments conduct microbiological testing in addition to testing for generic *E. coli*.[43]

[39] Viator C. et al. 2015. (a) RTI International designed and conducted surveys on industry practices to control pathogens and promote food safety. The sample design, administration procedures, analysis and results were provided to FSIS in a final report titled 'Meat Industry Survey in Support of Public Health Risk-Based Inspection' and was prepared by Catherine Viator, Sheri C. Cates, Shawn A. Karns, Peter Siegel, Ariana Napier, and Mary K. Muth. The contract number is No. AG–3A94–B–13–0003. The order No. is AG–3A94–K–13–0053.

[40] Viator C. et al. 2015. (b).

[41] The report classifies establishments as either large or small. Given this data limitation, this analysis assumes very small and small establishments have similar reassessment costs.

[42] 9 CFR 310.25.

[43] Viator C. *et al.* 2015. (a) P5–42. Question 3.1.

Establishments voluntarily conducting additional testing are an indication that the generic *E. coli* testing is not the best means to verify process control in their respective establishments.

This analysis assumes that, if permitted to choose a microbiological test to ensure process control, establishments would select the single best test that demonstrates process control at their establishment. Under these assumptions, establishments that currently test for generic *E. coli* and conduct at least one other type of microbiological test will stop testing for generic *E. coli.* As a result, the 28 large (28 * 1.00), 41 small high volume (51 * .80), 43 small low volume (54 * .80) and 342 very small (479 * .714) establishments that currently test for generic *E. coli* and at least one other microbial or pathogen indicator [44] would experience a cost reduction. Given the similarity in laboratory testing costs and costs associated with switching sampling programs, this analysis assumes the remaining 158 establishments that exclusively test for generic *E. coli* will continue to do so.

Calculating the cost reductions is a function of estimating the testing rate and testing costs. This analysis assumes all large and small high volume establishments conduct 1 test, every 1,000 carcasses, and all small low volume and very small establishments conduct 13 tests annually.[45] The Agency is seeking comment on this assumption. To calculate testing costs, this analysis estimates the associated labor expenses, laboratory fees, and shipping costs. The mean cost to an establishment to test a single generic *E. coli* sample in house is $24.92.[46] To have the sample tested at a contracted lab, the cost is $48.76.[47] Based on survey results, this analysis assumes 79 percent of large, 28 percent of small and 5 percent of very small establishments test in house.[48] For these 454 establishments, the combined reduction in testing costs of no longer being required to test for generic *E. coli* is expected to reduce annual testing costs by approximately $3.92 million, assuming a 3 percent discount rate over 10 years, Table 14.

TABLE 14—RECURRING COSTS (SAVINGS) FROM NO LONGER REQUIRING GENERIC *E. coli* TESTING

[M$]

HACCP size	Number of establishments	(Savings)
Large	28	($3.28)
Small High Volume	41	(0.40)
Small Low Volume	43	(0.02)
Very Small	342	(0.22)
Totals:		
Recurring Cost		(3.92)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years		(3.92)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years		(3.92)

Process Control Sampling Rates

The proposed rule would require large and small high volume establishments to take samples at pre-evisceration and post-chill, which would increase the number of samples taken from 1 sample per 1,000 carcasses to 2 samples per 1,000 carcasses for large and small high volume establishments. The proposed rule does not require small low volume and very small establishments to increase their sampling rates. Under the proposed regulations, large establishments annual process control sampling costs are expected to increase by roughly $2.34 million, which is roughly $83,639 per establishment ($2.34 million/28), Table 15. Small high volume establishments annual process control sampling costs are expected to increase by roughly $0.29 million, which is roughly $5,740 ($0.29 million/51) per establishment, Table 15.

Process Control Sample Recordkeeping

This analysis takes into consideration the increase in record keeping costs associated with an increase in the sampling rate from 1 to 2 samples per 1,000 head. According to PHIS data, the average large establishment slaughters approximately 3.77 million swine per year. As such, this analysis estimates that a large establishment currently takes approximately 3,774 samples annually (3,774,223/1,000). The average small high volume swine establishment slaughters 0.23 million swine per year and requires approximately 229 samples (228,784/1,000) annually. Assuming it takes 2.5 minutes to record the results of each sample, the average large establishment currently requires 9,435 minutes (2.5 * 3,774) per year and the average small high volume establishment currently requires 573 minutes (2.5 * 229) per year. Requiring establishments to increase their sampling rates from 1 to 2 samples per 1,000 head would increase the average large establishment's annual number of samples to 7,548 samples annually (3,774,223/1,000 *2), which would require approximately 18,870 minutes (2.5 * 7,548) annually. The same requirement would increase a small high volume establishment's annual sampling to 458 (228,784/1,000 * 2), which would require approximately 1,145 minutes (2.5 * 458) annually. As such, the expected additional time required for recordkeeping is approximately 9,435 minutes (18,870–9,435) for large establishments and 572 minutes (1,145–573) for small high volume establishments. Assuming a quality control technician with a compensation rate of $68.52 per hour [49] conducts this work, the additional costs

[44] Question 3.1 from the Meat Industry Survey in Support of Public Health Risk-Based Inspection Report asks ''In addition to the generic *E. coli* testing of carcasses and Listeria testing of ready-to-eat (RTE) products required by FSIS regulation, does this establishment conduct microbiological testing?''; 28.6% of very small, 20% of small, and 0% of large establishments responded no, meaning 71.4% of very small, 80% of small and 100% of large establishments conduct additional testing.

[45] 9 CFR 310.25(a)(2)(iii) (B). The current regulation (9 CFR 310.25(a)(2)(v)) defines very low volume swine slaughter establishments as slaughtering 20,000 head annually or fewer. For the purposes of this analysis, FSIS has labeled swine establishments that annually slaughter more than 20,000 head per year as high volume.

[46] Viator C. et al. 2015. (b) Table 5–1.

[47] Viator C. et al. 2015. (b) Table 5–1.

[48] Viator, C. et al. 2015. (b).

[49] To be consistent with analyses done by the Department of Health and Human Services, this analysis accounts for benefits and overhead by multiplying wages by a factor of 2.

to the average large establishment is approximately $10,775 (9,435/60 * $68.52). Similarly, the additional cost to the average small high volume establishment is approximately $653 (572/60 * 68.52). Scaling this up to all establishments, the total increase in costs to all large establishments is approximately $0.30 million ($10,775 * 28) and $0.03 million ($653 * 51) for small high volume establishments, Table 15.

The combined annualized sampling and recordkeeping cost to all large and small high volume establishments is roughly $2.97 million, applying a 3 percent discount rate over 10 years. Large establishments are expected to incur the majority of this cost.

TABLE 15—COSTS CHANGES ASSOCIATED WITH INCREASE SAMPLING RATES

[M$]

	Number of establishments	Costs		
		Sampling	Recordkeeping	Combined
Large	28	$2.34	$0.30	$2.64
Small–High Volume	51	0.29	0.03	0.33
Totals:				
Recurring Cost				2.97
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				2.97
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				2.97

Summary of Process Control Sampling Costs Changes

Overall, the changes in sampling requirements under the proposed rule are expected to reduce industry wide sampling costs by about $0.76 million annualized over 10 years, applying a 3 percent discount rate, Table 16. However, only the 454 establishments that currently conduct multiple types of microbiological tests are expected to experience a reduction in cost. The remaining establishments, roughly 158 small and very small establishments, are expected to incur a portion of the one-time costs associated with plan reassessment, Table 16. Cost increases associated with testing and recordkeeping will be exclusively borne by large and small high volume establishments.

TABLE 16—SUMMARY OF CHANGES TO PROCESS CONTROL SAMPLING

[M$]

Type of change	Cost (savings)	
	One-time	Recurring
Plan Reassessment	$1.67	.....
Converting to Process Control Sampling	.....	($3.92)
Testing Costs	.....	2.63
Recordkeeping	.....	0.33
Totals:		
One-Time Cost		1.67
Recurring Cost		(0.95)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years		(0.76)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years		(0.72)

c. Environmental Sampling

As proposed, all swine slaughter establishments will be required to control for enteric pathogen contamination in the pre-operational environment. Such controls will have to be included in an establishment's HACCP system, requiring a plan reassessment. This analysis assumes establishments will coordinate this work with the HACCP plan reassessment required by the development of written sanitary dressing procedures. As such the cost of incorporating pre-operational environment sampling plans into an establishment's HACCP system is included in the reassessment costs associated with written sanitary dressing procedures.

While establishments will set sampling frequency so as to ensure effective control, this analysis assumes each large establishment will take 4 samples per 30 days of operation per line, while each small high volume establishment will take 2 samples per 30 days of operation per line, and small low volume and very small establishments will take 1 sample per 30 days of operation per line.[50] Under this assumption, the annual number of tests required by the entire industry is approximately 3,266. The Agency is seeking comment on this assumption. Establishments are permitted to conduct a variety of tests, including testing for Aerobic Plate Count, APC, Coliforms, Generic *E. coli,* Total Plate Count, TPC, and *Salmonella.* The laboratory testing

[50] In absence of other data we assumed establishments would conduct environmental sampling similar to the recommended frequencies described on Page 91 in: FSIS Compliance Guidelines: Controlling *Listeria monocytogenes* in Post-lethality Exposed Ready-to-Eat Meat and Poultry Products. January 2014. Accessed on 12/3/15. Available at *http://www.fsis.usda.gov/wps/wcm/connect/d3373299-50e6-47d6-a577-e74a1e549fde/Controlling-Lm-RTE-Guideline.pdf?MOD=AJPERES.* Industry is familiar with this methodology for sampling food-contact-surfaces in the post-lethality environment to ensure that the surfaces are sanitary and free of Listeria monocytogenes or an indicator organism. We assumed industry would take a similar approach in sampling food-contact-surfaces in market hog establishments to meet the proposed environmental sampling requirements.

costs for these test range from $15 to $32, with an average mean testing cost of $19, Table 17.[51]

TABLE 17—LABORATORY TESTING COSTS

Test	Minimum	Mean	Maximum
APC	$16	$18	$20
Coliforms	15	18	22
E. coli	15	18	22
Salmonella	17	25	32
TPC	16	16	17
Average	16	19	23

Source: Viator. C. et al. 2015. Costs of Food Safety Investments. Table 5–1. Laboratory Testing Costs.

To ensure a conservative estimate this analysis assumes establishments will test for *Salmonella,* which is the most expensive option, Table 17. Under these assumptions, the combined total annual environmental sampling cost is approximately $0.08 million (3,266 × $25). The annualized cost of these combined expenditures is roughly $0.08 million, assuming a 3 percent discount rate over 10 years, Table 18.

TABLE 18—COSTS OF ENVIRONMENTAL SAMPLING

[M$]

HACCP size	Number of establishments	Sampling costs
Large	28	0.03
Small High Volume	51	0.02
Small Low Volume	54	0.004
Very Small	479	0.03
Totals:		
Recurring Cost		0.08
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years		0.08
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years		0.08

Summary of Voluntary and Mandatory Costs

The total annualized value of all costs to industry, under the assumed five year adoption rate as shown in Table 6, is roughly $17.84 million, assuming a 10 year annualization and a 3 percent discount rate, Table 19. Large establishments that voluntarily switch to the NSIS incur the majority of costs. For example, the recurring labor costs associated with the NSIS is the single largest recurring cost to industry and is mostly incurred by large establishments. It should be noted that the five HIMP pilot establishments have already incurred these costs, suggesting for those five establishments, the benefits of NSIS outweigh the costs. It also suggests that the benefits of adopting NSIS outweigh the costs for other establishments as well. Training staff accounts for the bulk of the costs associated with written sanitary dressing procedures. Sampling costs are expected to decrease for those establishments that currently conduct microbiological tests in addition to generic *E. coli.*

TABLE 19—COMBINED COSTS TO INDUSTRY

[M$]

Type of cost	Number of establishments	Total costs	
		One-time	Recurring
Voluntary:			
Establishment Labor	35	$0.84	$21.66
Ready to Cook	35		0.51
Mandatory:			
Written Sanitary Dressing Plan	612	1.36	1.34
Process Control Sampling	612	1.67	(0.95)
Environmental Sampling	612	0.0	0.08
Totals *:			
Number of Establishments			612
One-Time Cost			3.88
Recurring Cost			22.65
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			17.84

[51] Viator. C. et al. 2015. (b) Table 5–1. Laboratory Testing Costs.

TABLE 19—COMBINED COSTS TO INDUSTRY—Continued

[M$]

Type of cost	Number of establishments	Total costs	
		One-time	Recurring
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			17.24
Totals Mandatory*:			
Number of Establishments			612
One-Time Cost			$3.03
Recurring Cost			$0.48
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			$0.82
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			$0.88
Totals Voluntary*:			
Number of Establishments			35
One-Time Cost			$0.84
Recurring Cost			$22.17
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			$17.02
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			$16.36

* Note, some of the totals may not equal the sum due to rounding.

H. Expected Benefits of the Proposed Rule

1. Expected Benefits Associated With Public Health

Switching existing FSIS inspection program personnel (IPP) activities toward more offline verification activities (*e.g.,* sanitation performance standards, sampling, fecal inspections, and other inspection requirements) is expected to reduce pathogen levels in swine slaughter establishments. This conclusion is supported by a two-part risk assessment which compares typical FSIS market swine inspection outcomes with the outcomes observed in a small subset of establishments that participated in the HACCP-based Inspection Models Project (referred to in the risk assessment as HIMP plants).

Stage 1 of the risk assessment consists of a multiple regression analysis to identify the relationships between establishment characteristics (including HIMP status) and carcass contamination prevalence. Stage 2 of the risk assessment consists of multiple scenario models in which combinations of plausible changes to inspection procedures are inserted into equations created using the coefficients computed in Stage 1. These scenarios produce estimates of change in carcass contamination prevalence under the inspection procedures of NSIS.

Changes in expected numbers of *Salmonella* illness are estimated based on a proportional relationship between carcass contamination prevalence and illnesses that has been published in the peer-reviewed literature.[52 53] This relationship was also validated internally in the risk assessment, with an analysis of variance (ANOVA) test indicating that carcasses slaughtered in establishments with relatively low prevalence of *Salmonella* did not show significantly different contamination load (measured by enumeration of *Salmonella* colony-forming units per gram) when compared with establishments with relatively high prevalence of *Salmonella.* In other words, if the proportion of carcasses with no detectable *Salmonella* contamination increases with implementation of the NSIS, illnesses caused by consumers' exposure to these carcasses are expected to decrease proportionally.

The market hog *Salmonella* illness risk model estimates that the prevalence of *Salmonella* detected in carcasses will decline on average from an initial prevalence of 0.9407% to a final prevalence of 0.9066% if the 35 establishments identified adopt the new inspection system. The uncertainty of the final prevalence ranges from 0.8982% to 0.915%, at the 10th and 90th percentiles, respectively. This decrease in prevalence should correspond to an average decrease in illnesses due to market hog product consumption by an average of 2,533 annual cases.[54]

More specifically, CDC applies 14 empirical, population-adjusted, and Pert uncertainty distributions multiplicatively modeled as Monte Carlo distributions with repeated sampling and Bayesian characteristics to the data collected at their surveillance sites. CDC states that the illness estimates are robust but likely underestimates due to extrapolation from surveillance and outbreak data with underreporting not captured in the CDC uncertainty estimates based ultimately on laboratory confirmed cases. CDC's modeling approach used to estimate total uncertainty of illnesses is designed to capture multiple sources of uncertainty that were not explicitly modeled—that is, the uncertainty in CDC illness estimates captures components of consumer behavior, cross contamination and *Salmonella* inactivation and growth between production and consumption.[55] The uncertainty surrounding illness estimates is the largest contributor to overall uncertainty in the NSIS risk model. The total uncertainty in the case rate is estimated to be bounded at the 10th and 90th percentiles by 768 and 4,287 decreased cases, respectively. The total case uncertainty distribution is dependent on the uncertainty in the change in *Salmonella* prevalence in market hogs which has an average percent uncertainty of a 3.626% decrease and is bounded at the 10th and 90th percentiles by a decrease of 1.0989% and 6.1362%, respectively.

[52] Williams M. S., Ebel, E. D., Vose, D. 2011. Framework for Microbial Food-Safety Risk Assessments Amenable to Bayesian Modeling. *Risk Analysis* 31(4):548–565.

[53] Ebel, E. E., *et al.* 2012. Simplified framework for predicting changes in public health from performance standards applied in slaughter establishments. *Food Control* 28(2): pp. 250 257.

[54] The relationship between carcass contamination prevalence and human illnesses modeled as in Williams *et al.,* 2010, Estimating changes in public health following implementation of hazard analysis and critical control point in the United States broiler slaughter industry, Foodborne Pathogens and Disease, 9 and Ebel *et al.,* 2012, Simplified framework for predicting changes in public health from performance standards applied in slaughter establishments, Food Control,28.

[55] CDC's surveillance and outbreak attribution data are available in Scallan, E., *et al.* 2011. Foodborne Illness Acquired in the United States—Major Pathogens. *Emerging Infectious Diseases* 17(1): 7–15.

The prevalence estimates are modeled with data variability and robust uncertainty components taken from sampling data and model parameter estimates. The variability and uncertainty in the market hog proportion of illnesses is modeled from FSIS market hog slaughter data and Bayesian uncertainty. As demonstrated in the 2010–2011 Market Hog Baseline Study, the market hog slaughter process resulted in 2,390,482 carcasses produced per year and a weighted *Salmonella* contamination prevalence rate of 1.66%; the 10th percentile estimate for this value is 2,218,169 carcasses and the 90th percentile estimate is 2,561,973 carcasses. This uncertainty in the carcass prevalence rate in market hogs according to the peer reviewed prevalence model corresponds to the overall uncertainty in consumer *Salmonella* cases of illnesses from market hogs with an average of 69,857 cases and 10th and 90th percentiles of 40,778 and 104,333 cases respectively, without intervention. With adoption of the new inspection system, the average number of cases is likely to decrease to 67,324 with 10th and 90th percentiles of 38,653 and 101,417 cases, respectively.

The market hog risk assessment estimates that if the 35 establishments expected to covert to the NSIS over 5 years do so, the number of human illness attributed to products derived from market hogs could reduce by an average of 2,533 *Salmonella* illnesses. The combined robust model estimate of total uncertainty in the case rate based on CDC *Salmonella* illness and FSIS market hog contamination data is estimated to be bounded at the 10th and 90th percentiles by 768 and 4,287 decreased cases, respectively. The ERS estimates of the annual per case cost of foodborne illnesses for *Salmonella* range from roughly $321 to $5,820, with a mean of roughly $3,682.[56] These estimates factor in the costs of physician office, emergency room, and outpatient clinic visits, as well as hospitalizations, productivity loss, and deaths. Assuming approximately 2,533 averted cases of *Salmonella,* potential savings range from roughly $0.81 million to $14.74 million, with a midpoint of $9.33 million, Table 20. The cost savings assuming the lowest cost per illness and only 768 cases avoided, which corresponds to the 10th percentile, is $0.25 million, Table 20. Alternatively, the cost savings assuming the highest cost per illness and 4,287 averted illnesses, which corresponds to the 90th percentile, is $24.95 million, Table 20. Using the midpoint estimate of $9.33 million cost decrease and applying a five year adoption rate, the annualized value is approximately $7.09 million, at a 3 percent discount rate, Table 20. These estimated benefits may underestimate total benefits because they do not include pain and suffering costs. They may also overestimate benefits and cost savings given the uncertainty between the number of illnesses and the number of carcasses detectable with *Salmonella.*

TABLE 20—HEALTH BENEFITS FROM AVERTED CASES OF SALMONELLA

Percentile	Illnesses averted by scenario	Cost per illness *		
		Low	Mid	High
		$321	$3,682	$5,820
		Scenario costs, $M		
10th	768	($0.25)	($2.83)	($4.47)
Mean	2,533	(0.81)	(9.33)	(14.74)
90th	4,287	(1.38)	(15.79)	(24.95)
Totals (Low)(M$):				
Recurring Cost				($0.25)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				($0.19)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				($0.18)
Totals (Mid)(M$):				
Recurring Cost				($9.33)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				($7.09)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				($6.81)
Totals (High)(M$):				
Recurring Cost				($24.95)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				($18.97)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				($18.22)

* Source: USDA ERS, 2014, Cost Estimates of foodborne illnesses. *http://www.ers.usda.gov/data-products/cost-estimates-of-foodborne-illnesses.aspx#48446* Accessed on 9/9/2011. Last Updated on 11/12/2014.

2. Other Benefits Associated With Modernizing Existing Regulations

The proposed regulation is expected to reduce the regulatory burden on establishments by shifting from prescriptive to performance based regulation. Specifically, the proposed rule amends requirements related to slaughter line speeds,[57] microbiological testing, and sorting activities. Based on the Evaluation of HACCP Inspection Models Project (HIMP) for Market Hogs report, the five HIMP establishments' average line speed were approximately 12.49 percent faster than comparable establishments.[58] This increase in line speed is synonymous with an increase in industrial efficiency. To quantify the benefit associated with this efficiency gain, this analysis used the North

[56] USDA ERS, 2014, Cost Estimates of foodborne illnesses. *http://www.ers.usda.gov/data-products/cost-estimates-of-foodborne-illnesses.aspx#48446* Accessed on 9/9/2011. Last Updated on 11/12/2014.

[57] According to the Evaluation of HACCP Inspection Models Project (HIMP) for Market Hogs Final Report, November 2014, ''In CY 2013, the estimated line speeds at the 5 HIMP market hog establishments varied from 885 to 1,285 hph, with an estimated average line speed of 1,099 hph. The 21 non-HIMP comparison establishments had estimated line speeds of 571 to 1,149 hph, with an estimated average line speed of 977 hph''.

[58] USDA FSIS Evaluations—HACCP Inspection Models Project (HIMP) for Market Hogs *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/haccp/haccp-based-inspection-models-project/evaluations-+himp* Accessed on 1/6/2017. Last updated on 11/14/2014.

American Meat Institutes' average pork packer margins for 2010–2014, which was reported to be $4.10 per head in NAMI's 2015 Meat and Poultry Facts.[59] The pork packer margin is the price the packer receives less the cost of the hog and production costs, making the packer margin an approximation for producer surplus. FSIS requests comment on refining this estimate so as to distinguish between accounting profit and economic profit—the latter being more precisely associated with producer surplus.

Assuming establishments increase their line speeds by 12.49 percent and have a packer margin of $4.10 per head, an average large establishment's surplus could increase by approximately $2.04 million, while an average small high volume establishment's surplus could increase by $0.18 million, all else being equal. Combined, such an increase in efficiency at all 35 establishments would increase producer surplus by roughly $47.33 million[60] (22 × $2.04 million + 13 × $0.18 million), which has an annualized benefit of roughly $47.33 million, assuming a 3 percent discount rate over 10 years, Table 21. This estimate takes into consideration the assumed five year adoption rate. However, this increase in surplus may be an overestimate given that an increase in line speeds may change market hog prices, establishment production costs, retail prices, and export volumes. Additionally, consumer benefits would be conditional on how an increase in line speed affects retail prices. As such, the Agency is seeking comment on the extent to which such an increase in line speeds would affect market hog prices, establishment hours of production, consumer prices, and export volumes.[61]

TABLE 21—INDUSTRIAL EFFICIENCY, (BENEFITS) M$

Type of establishment	Number of establishments	Change in efficiency	
		Per establishment	Combined
Large	22	($2.04)	($44.97)
Small	13	(0.18)	(2.37)
Combined *	35		(47.33)
Totals:			
Recurring Cost			(47.33)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			(36.14)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			(34.74)

* Note, some of the totals may not equal the sum due to rounding.

The five HIMP establishments have demonstrated that establishments operating under the NSIS are able to increase their compliance with sanitation SOPs and HACCP regulations, lower their level of non-food safety defects, achieve equivalent or better *Salmonella* verification testing rates, and lower the level of violative chemical residues.[62] The five establishments that participated in the pilot project account for 15 percent of total swine production.

Additionally, NSIS inspection increases the Agency's ability to conduct more process and product verification and increase monitoring of humane handling procedures, which is expected to improve animal welfare. FSIS inspectors devoted approximately 5.33 hours per shift to verifying humane handling activities for the HATS categories in HIMP market hog establishments compared to approximately 4.29 hours per shift in the 21 non-HIMP market hog comparison establishments.[63] Under NSIS, establishments sort, remove, and identify swine unfit for slaughter before FSIS ante-mortem inspection. More FSIS resources can be devoted to offline inspection activities because initial sorting and tagging functions are performed by establishment personnel. This change will provide Agency personnel with more time to conduct offline inspection activities.

I. Expected Budgetary Impacts

Under the proposed rule, the Agency would shift Agency resources from online to offline activities. This analysis estimates such a shift will reduce labor expenses by approximately $6.67 million annually, Table 22. However, Agency personnel at NSIS establishments will require additional training, the annualized cost of which is estimated to be approximately $0.30 million. Both of these annualized estimates apply a 3 percent discount rate over 10 years. Details of these costs are provided below.

1. Agency Staffing

The following section discusses the impact on the Agency's budget due to reassignment of the inspection staff. As discussed in section F of this document, under traditional inspection, a single slaughter line at a large establishment requires up to 11 FTEs and up to 2 FTEs at a small market hog establishment. Under NSIS, a single slaughter line at a large establishment is expected to require 6 FTEs, while a small market hog establishment is expected to require 3 FTEs. Large establishments with two slaughter lines are expected to require 10 FTEs, while a small market hog establishment with 2 slaughter lines is expected to require 4 FTEs.

[59] Nalivka, J.S., The 2015 Meat and Poultry Facts, *NAMI* December 2015.

[60] Note, some of the totals may not equal the sum due to rounding.

[61] The Agency further notes that marginal costs typically increase as a function of production quantity, in which case profit margins reach zero for the last unit of production; indeed, the phenomenon of rising marginal costs is consistent with the observation of HIMP line speed increases that are less than the maximum increase that is theoretically permissible. Assuming linearity of the relevant marginal cost curve would yield a margin of $2.05 per head, thus making producer surplus half the amount estimated here as the change in industrial efficiency. Meanwhile, if demand and supply elasticities for pork products are similar—which may or may not be plausible—then consumer surplus would increase by half the industrial efficiency amount estimated here, thus making the overall efficiency change estimate a reasonable approximation for the total (consumer plus producer) surplus gain.

[62] USDA FSIS Evaluations—HACCP Inspection Models Project (HIMP) for Market Hogs *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/haccp/haccp-based-inspection-models-project/evaluations-+himp* Accessed on 1/6/2017. Last updated on 11/14/2014.

[63] USDA FSIS Evaluations—HACCP Inspection Models Project (HIMP) for Market Hogs *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/haccp/haccp-based-inspection-models-project/evaluations-+himp* Accessed on 1/6/2017. Last updated on 11/14/2014.

This analysis considers likely staffing changes at the 22 large and 13 small establishments which are expected to convert to NSIS over a course of five years. Combined, these establishments operate 46 shifts and 55 lines.[64] This analysis uses PHIS data provided by the Office of Field Operations (OFO) to calculate the number of FTEs assigned to each slaughter line. The FSIS Office of the Chief Financial Officer (OCFO) provided the wage and benefit data for each of these positions. This data was used to model the staffing changes in terms of both full time positions and monetary value. Based on this data, to conduct traditional inspection, the Agency requires a combined 365 (334 at large and 31 at small establishments) FTE food or consumer safety inspectors at an annual cost of approximately $30.43 million, Table 22. If all 22 large non-HIMP and 13 small high volume market hog only establishments convert to the NSIS, the Agency would require 218 (187 at large and 31 at small establishments) FTE food or consumer safety inspectors. This number was arrived at by assuming that under NSIS each of the 41 lines at the large establishments would have up to 3 FTEs assigned to them and each of the 32 shifts at the large establishments would have up 2 FTEs assigned to them ((41 lines × 3 FTEs) + (32 shifts × 2 FTEs) = 187 FTEs). Likewise, under NSIS, the 13 small establishments would each require between 2–3 FTEs, based on configuration, for a total of 31 FTEs. These staffing levels are based on FSIS's experience at HIMP establishments. The combined labor costs for NSIS is approximately $21.70 million, Table 22. This cost estimate includes expected grade increases associated with converting to the NSIS. As is shown in Table 22, if all 22 large establishments convert to NSIS, this analysis estimates a net decrease of 147 (334 − 187) FTEs required for slaughter line inspection. The NSIS inspection program at these large establishments has a remuneration value of just over $18.58 million. A similar analysis of the 13 small high volume establishments reveals no net change in the number of FTEs. However, because the NSIS requires all inspectors to be CSIs, many of the FTEs will likely be promoted from a FI to a CSI. Overall, if all 35 establishments converted to NSIS, the Agency would require 147 fewer FTEs for swine slaughter inspection, with an expected annual decrease in costs of roughly $8.73 million, which is equal to roughly $6.67 million a year, assuming a 3 percent discount rate, Table 22.

TABLE 22—EXPECTED CHANGES IN AGENCY STAFFING

[M$]

Type	Traditional		Proposed NSIS		Increases (reductions)	
	Number positions	Labor costs	Number positions	Labor costs	Number positions	Labor costs
Large	334	$27.56	187	$18.58	(147)	($8.98)
Small	31	2.87	31	3.12	0	0.25
Total	365	30.43	218	21.70	(147)	(8.73)
Totals:						
Recurring Cost						(8.73)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years						(6.67)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years						(6.42)

Since 2008, the Agency has annually lost, through attrition, 270 food inspectors on average. See Table 23 for details. The Agency plans to utilize all personnel made available as a result of conversion to NSIS to fill these vacant positions.

TABLE 23—ANNUAL TURNOVER OF FOOD INSPECTORS

Fiscal year	Number of positions
2008	307
2009	264
2010	231
2011	268
2012	266
2013	246
2014	273
2015	305

TABLE 23—ANNUAL TURNOVER OF FOOD INSPECTORS—Continued

Fiscal year	Number of positions
Average	270

Source: OFO.

2. Agency Training

Three Day NSIS Methods Course

If all 22 large and 13 small market hog establishments convert to NSIS over the course of five years, as set forth in Table 6, the Agency expects to train 266 personnel (218 CSIs and 48 PHVs), with pay grades ranging from GS–8 to GS–13, on NSIS methods. The majority of these personnel, 228, are associated with 22 large establishments, while the remaining 38 are associated with 13 small establishments, Table 24. The associated one-time cost of such training includes labor and travel expenses associated with the employees receiving training, as well as temporary replacement labor costs required to fulfill the work that would have been completed by the employees receiving training. Based on the HIMP program, this analysis assumes NSIS methods training will take 3 days and replacement labor will be equivalent to GS–13 step 5. Under these assumptions, the total one-time cost of NSIS training is approximately $0.64 million ($550,942 for all large establishments and $81,697 for all small establishments), Table 24. This one-time cost equals approximately $0.07 million if it were annualized over 10 years under a 3 percent discount rate, Table 24.

[64] The 22 large establishments operate 41 slaughter lines during 32 shifts, while the 13 small establishments operate 14 lines during 14 shifts, source PHIS.

TABLE 24—THREE DAY NSIS TRAINING COURSE

[M$]

Type of establishment	Cost of trainee		Replacement labor		Combined costs
	Number of inspectors requiring training	Costs of wages and benefits for trainees	Number of replacement inspectors required	Costs of wages and benefits for replacements	
Large	228	$0.21	228	$0.34	$0.56
Small	38	0.03	38	0.06	0.08
Totals:					
One-Time Cost					0.64
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years					0.07
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years					0.07

Fill an Increase Need for Consumer Safety Inspectors

As proposed, slaughter line inspectors at a NSIS establishment will work both on and off the slaughter line. As such, every inspection position will fall under the CSI position classification. To fill the increase in demand for CSIs, the Agency plans to train existing FIs. Training includes a four-week meat inspector course and a one-day computer familiarization course. If all 22 large establishments convert to NSIS, the Agency will need an additional 82 CSIs. Likewise, if all 13 small market hog establishments convert, the Agency will need an additional 16 CSIs. Converting a FI into a CSI may result in a grade increase, the cost of which has been included in the Agency Staffing section above. The combined one-time cost for converting FIs into CSIs is roughly $2.16 million, Table 25. Nearly half of this cost stems from the need for replacement labor. Again, under the proposed five year adoption rate, as set forth in Table 6, and under a 3 percent discount rate the annualized costs is approximately $0.23 million, Table 25.

TABLE 25—COST OF CONVERTING A FOOD INSPECTOR INTO A CONSUMER SAFETY INSPECTOR

[M$]

Training component	Labor		Travel, M&IE, and lodging	Combined costs
	Trainee	Replacement		
Four Week MI Course	$0.52	$0.98	$0.59	$2.09
One Day Computer Training	0.03	0.05		0.07
Totals:				
One-Time Cost				2.16
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years				0.23
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years				0.25

Combined Expected Budgetary Impacts

The Agency's budget is expected to be impacted both by changes to personnel and training requirements. First, there will be a reduced need for Agency personnel to inspect a slaughter line operating under NSIS. If all 22 large and 13 small establishments convert to NSIS over the course of five years, the Agency would require approximately 147 fewer FTEs to inspect the 55 [65] slaughter lines operating at these establishments. The annual remuneration value of these 147 positions is roughly $8.73 million, Table 26. Second, the Agency will need to train approximately 266 personnel on NSIS methods at a one-time cost of approximately $0.64 million, Table 26. Third, the Agency plans to meet the increase in demand for CSIs by converting existing FIs into CSIs. The one-time cost of doing so is approximately $2.16 million, Table 26. The annualized value of the combined changes to the Agency's budget is a net reduction of roughly $6.38 million, over 10 years assuming a 3 percent discount rate, Table 26.

TABLE 26—COMBINED CHANGES TO FSIS'S BUDGET

[M$]

	Total costs	
	One-time	Recurring
Changes to Agency Staffing		($8.73)
Three Day NSIS Training	$0.64	
Converting Food Inspectors into Consumer Safety Inspectors	2.16	
Totals:		
One-Time Cost		2.80

[65] Source: PHIS.

TABLE 26—COMBINED CHANGES TO FSIS'S BUDGET—Continued

[M$]

	Total costs	
	One-time	Recurring
Recurring Cost		(8.73)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years		(6.38)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years		(6.09)

J. Net Benefits

With the expected impact on the Agency's budget and industry's revenue included, and assuming all large and small exclusively market hog establishments convert to NSIS (5 HIMP, 22 large, and 13 Small high volume), the rule is anticipated to have a net benefit of approximately $31.77 million a year, annualized over 10 years assuming a 3 percent discount rate, Table 27. The majority of the costs are experienced by the 35 non-HIMP establishments expected to voluntarily switch to the NSIS in the form of increased labor needs.

TABLE 27—NET COSTS AND (BENEFITS)

[M$]

	Number of establishments	One-time	Recurring
Costs To Industry		$3.88	$22.65
Voluntary *	** 40	0.84	22.17
Mandatory	612	3.03	0.48
Health Benefits ***			(9.33)
Industrial Efficiency			(47.33)
Impacts to Agency's Budget		2.80	(8.73)
Totals:			
One-Time Cost			6.68
Recurring Cost			(42.75)
Annualized Costs, Assuming a 3% Discount Rate Over 10 Years			(31.77)
Annualized Costs, Assuming a 7% Discount Rate Over 10 Years			(30.40)

* Further explanation and details on the NSIS adoption rate are provided in section G. Expected Cost of the Proposed Rule, Table 6: NSIS Adoption Rate and section J. Net Benefits, Table 28: Quantified Cost and (Benefits) of Various Adoption Rates.

** Note, this includes 5 HIMP establishments, which are not expected to incur any cost or benefits associated with the NSIS.

*** Further explanation and details on the range of health benefits have been provided in section H. Expected Benefits Associated With Public Health, Table 20: Health Benefits from Averted Cases of Salmonella. The value of health benefits ranges from $0.19 million to $18.97 million, with a mean of $9.33 million.

Given the lack of data with which to make cost-benefit comparisons across the industry, Table 28 provides a range of possible adoption scenarios and their corresponding costs and benefits. Under scenario A, only the 5 HIMP establishments adopt the NSIS. Because these 5 establishments are already operating under NSIS practices, there would not be any additional voluntary costs or benefits associated with these 5 establishments adopting the NSIS. However, all 612 establishments would incur costs associated with the proposed rule's mandatory components. As such, scenario A has a net cost. Scenario B assesses the net cost and benefits of just 6 establishments adopting the NSIS (5 HIMP and 1 large). This scenario reveals that the rule is net beneficial if just 1 large establishment adopts the NSIS in addition to the 5 HIMP establishments. Scenarios C, D, and E measure the net costs and benefits of 50, 75, and 100 percent of the 40 establishments converting to the NSIS, respectively. Each of these scenarios are net beneficial.

TABLE 28—QUANTIFIED COST AND (BENEFITS) OF VARIOUS ADOPTION RATES

[M$] ∧

	Number to Adopt *	Costs		(Benefits)			Net
		Mandatory @	NSIS	Health	Line speeds	Agency budget	
A	5	$0.82	$0.0	$0.0	$0.0	$0.0	$0.82
B	6	0.82	0.86	(0.27)	(2.04)	(0.38)	(1.00)
C	23	0.82	8.35	(3.59)	(18.01)	(3.14)	(15.57)
D	32	0.82	13.09	(5.52)	(27.82)	(4.88)	(24.30)
E	40	0.82	17.02	(7.09)	(36.14)	(6.38)	(31.77)

* These numbers include the 5 HIMP establishments. However, because these establishments are already conducting NSIS practices, they did not contribute to quantified NSIS costs, health benefits, or the impacts to the Agency's budget.

@ These costs are incurred by all 612 swine establishments.

∧ Annualized Assuming a 3% Discount Rate Over 10 Years.

K. Alternatives

TABLE 29—ALTERNATIVE POLICY OPTIONS

Alternatives	Benefits	Costs	Net
A. No action (Baseline)	1. No additional costs to industry	1. Potential for inefficient use of agency resources. 2. No potential increase in industrial efficiency. 3. Lack of incentive for establishments to innovate and improve their process controls. 4. No potential health benefits.	
B. Mandatory Portion of the Proposed Rule Only.	1. In comparison to the baseline, potential $0.76M in Process Control Sampling cost savings.	1. In comparison to the baseline, potential $1.58M in Other Industry Costs.	Costs of $0.82M.
C. Proposed Rule (40 Establishments Adopt NSIS).	1. Potential $7.09M in averted illnesses. 2. Potential $36.14M in Industrial Efficiency. 3. Potential $0.76M in Process Control Sampling cost savings. 4. Roughly $6.67M in Agency Labor Savings.	1. Potential $16.62M Increase in Industry Labor Costs. 2. Potential $1.97M in Other Industry Costs. 3. Roughly $0.30M in Agency Training Costs.	Benefits of $31.77M.
D. Require All 612 Establishments Adopt NSIS.	1. Potentially more than $7.09M in averted illnesses. 2. Potential $36.14M in Industrial Efficiency. 3. Potential $0.76M in Process Control Sampling cost savings. 4. Roughly $2.72M in Agency Labor Savings.	1. Potential $25.9M Increase in Industry Labor. 2. Potential $3.3M in Other Industry Costs. 3. Roughly $0.68M in Agency Training Costs.	Benefits of $16.83M.

A—Taking No Action (Baseline)

FSIS considered maintaining the current inspection system for all 612 swine slaughter establishments. The Agency rejected this alternative because it would forgo the benefits provided by NSIS. These benefits include the establishment's ability to innovate and develop process controls which increase foodborne hazard detection and more efficiently use all of their resources. Taking no action would also forgo potential industrial efficiency increases. Further, no action would result in the Agency continuing to dedicate resources to food quality issues, at the expense of increasing offline activities benefitting food safety. Last, taking no action would also forgo potential health benefits identified under the proposed rule.

B—The Mandatory Portion of the Proposed Rule

FSIS considered limiting the proposed rule to only include the mandatory sections. Under such a scenario quantified benefits are limited to an estimated $0.76 million reduction in process control sampling costs. This cost reduction is expected to be off-set by a $1.58 million increase in other industry costs associated with requiring written sanitary dressing plans and environmental sampling. In comparison to the baseline, this scenario has a net cost of roughly $0.82 million. Additionally, under such a scenario, the Agency's inspection staff would not be reassigned and the Agency would continue to require the same number of inspectors. As such, the Agency's labor costs would not decrease by the expected $6.67 million. However, because FIs will not be converted into CSIs nor will inspectors require additional training, the Agency would not incur the corresponding $0.30 million in training costs ($0.07 for NSIS training plus $0.23 in CSI training). As mentioned earlier, simultaneously increasing unscheduled and scheduled inspection procedures and decreasing scheduled but not performed procedures accrues most of the public health benefits. The unscheduled and scheduled tasks are currently not performed as a result of lack of offline personnel. In comparison to the proposed rule, this alternative would eliminate most of the public health benefits associated with the rule, which are estimated at $7.09 million annually. Additionally, line speed restrictions would remain in place leading to an estimated loss of over $36.14 million in industrial efficiency gains. FSIS has rejected this alternative in light of its expected net cost as compared to the baseline as well as the decrease in net benefits as compared to the proposed rule.

C—The Proposed Rule

Applying a 3 percent discount rate over 10 years the costs associated with the proposed rule include $16.62 million in additional industry labor costs, $1.97 million in other industry costs including costs associated with meeting ready to cook standards, written sanitary dressing plans, and environmental sampling, and $0.3 million in Agency training costs. The quantified health benefits of the proposed rule are limited to reductions in *Salmonella* illnesses and have an estimated value of $7.09 million, assuming a 3 percent discount rate. Allowing establishments to set line speeds so long as they maintain process control is expected to increase their efficiency by $36.14 million, assuming a 3 percent discount rate. The proposed rule is also expected to reduce industry costs associated with process control sampling by roughly $0.76 million, assuming a 3 percent discount rate. Additionally, the proposed rule is expected to reduce the Agency's labor costs by roughly $6.67 million, assuming a 3 percent discount rate. In comparison to the baseline, the proposed rule has an estimated net benefit of $31.77 million, assuming a 3 percent discount rate over 10 years and as such the Agency recommends the proposed rule.

D—Requiring All Federally Inspected Establishments Adopt the New Swine Inspection System

FSIS considered requiring all federally inspected swine slaughter establishments to convert to NSIS. This would expand NSIS from the 5 HIMP, 27 large, and 13 small high volume establishments expected to convert under the proposed rule to include 572 additional establishments. This expansion would include low volume establishments that slaughter all types of swine as well as establishments that slaughter a mix of species.

In comparison to the baseline, the benefits of this alternative potentially include more than $7.09 million in averted illnesses, a $36.14 million increase in industrial efficiency, $0.76 million in industrial savings associated with process control sampling requirements, and $2.72 million in Agency labor cost savings, assuming a 3 percent discount rate over 10 years. The production at these 572 additional establishments represents less than 8 percent of total production and as such is not expected to return substantial reductions in contamination prevalence or illnesses and falls outside of the current risk assessment. In particular, the uncertainty around measurement and model parameters that is already included in the health benefit calculations for the proposed rule likely produce wide enough estimates that the impact of adopting the NSIS in all establishments would have an effect within the uncertainty bounds. The increase in industrial efficiency remains similar to that of the proposed rule because these additional establishments are generally less automated and maintain slower line speeds to address higher rates of quality defects associated with non-market hogs. While compared to the baseline, this alternative reduces Agency labor costs; it would result in additional promotions reducing the benefit in comparison to the proposed rule.

In comparison to the baseline, the potential costs associated with this alternative include a $25.90 million increase in industrial labor, a $3.30 million increase in other industry costs which include costs associated with ready to cook standards, written sanitary dressing plans, and environmental sampling, and roughly $0.68 million in Agency training costs. In comparison to the proposed rule, the additional increases in costs to industry predominately fall on small and very small business. While this alternative has a net benefit of $16.83 million, assuming a 3 percent discount rate over 10 years, the Agency rejects it because its net benefit is less than the proposed rule.

VII. Regulatory Flexibility Act Assessment

The FSIS Administrator has made a preliminary determination that this proposed rule would not have a significant economic impact on a substantial number of small entities in the United States, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). FSIS used an establishment's HACCP processing size, which applies to an individual establishment, as a proxy for business size. HACCP processing sizes are the following: Large establishments have 500 or more employees; small establishments have between 10 and 499 employees; very small establishments have fewer than 10 employees or annual sales of less than $2.5 million. At the beginning of section VI is a list of specific economic issues that the Agency is seeking comment on. Section VI also provides additional details on costs incurred by small businesses.

The proposed rule's mandatory requirements would affect approximately 584 small entities, 105 small and 479 very small. First, the mandatory requirements include that all small and very small establishments create written sanitary dressing plans with cost components of development of the plan, training of employees, and recordkeeping, at an annualized cost of $1,869 per plant, applying a 3 percent discount rate over 10 years. Second, the mandatory proposed changes to process control sampling requirements are expected to decrease small establishments' sampling costs by roughly $1,296 per establishment annually, applying a 3 percent discount rate over 10 years. In addition to this sampling cost reduction, the Agency would allow small and very small establishments to modify their sampling plans to collect samples less frequently once they have collected 13 consecutive weekly samples and have demonstrated that they are effectively maintaining process control. FSIS is also proposing to allow establishments to develop sampling plans that are more tailored to their specific establishment, and thus more effective in monitoring their specific process control than the current generic *E. coli* criteria. Third, the mandatory environmental sampling program is expected to increase the average small and very small establishments' costs by $87 per establishment annually, assuming a 3 percent discount rate over ten years. Therefore, the proposed rule's mandatory requirements are expected to increase small establishments' costs by roughly $660 ($1,869 − $1,296 + $87 = $660) per establishment annually, an amount that is expected to have little effect on small entities. To put this in perspective, the average small and very small establishment slaughters over 21 thousand swine annually. Using the American Meat Institute's average pork packer dollars per head margins for 2010–2014, the average small and very small establishment's marginal revenue is $0.09 million (21,858 (heads slaughtered) x $4.10 (average margin per head)). Additionally, the voluntary NSIS portion of the rule is expected to provide an overall cost savings for the 13 small high volume establishments or roughly $87,449 per establishment that adopt the NSIS. This estimate takes into consideration the increase in labor cost ($43,439 per establishment), cost associated with meeting ready-to-cook standards ($6,300 per establishments) and cost savings from increased industrial efficiency ($137,189 per establishment). See section VI for additional details.

Executive Order 13771

Consistent with E.O. 13771 (82 *FR* 9339, February 3, 2017), we have estimated that this proposed rule would yield cost savings. Assuming a 7 percent discount rate and a perpetual time horizon and a starting year of 2018, the proposed rule would yield approximately $24.97 million (2016$) in cost savings, not including health benefits. Therefore, if finalized as proposed, this rule is expected to be an E.O. 13771 deregulatory action.

VIII. E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, et. seq.) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

IX. Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

X. Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, FSIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

XI. USDA Nondiscrimination Statement

No agency, officer, or employee of the USDA must, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed on-line at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: *Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410, Fax: (202) 690–7442, *Email: program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

XII. Environmental Impact

Each USDA agency is required to comply with 7 CFR part 1b of the Departmental regulations, which supplements the National Environmental Policy Act regulations published by the Council on Environmental Quality. Under these regulations, actions of certain USDA agencies and agency units are categorically excluded from the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) unless the agency head determines that an action may have a significant environmental effect (7 CFR 1b.4 (b)). FSIS is among the agencies categorically excluded from the preparation of an EA or EIS (7 CFR 1b.4 (b)(6)).

Establishments that operate under the proposed NSIS are expected to be able to slaughter and process swine more efficiently than is possible under current regulations, leading to a reduction in production costs. FSIS expects that consumer demand for pork products will determine the number of swine slaughtered rather than production costs. Because of the efficiencies in the NSIS, the price of pork products may decrease. The predicted price reduction could lead to a slight increase in demand for pork products. With the slight increase in pork product sales, some establishments may choose to increase the number of swine slaughtered, which could result in an increase in the number of condemned carcasses and parts that must be disposed of. However, because the anticipated change in sales is very small, the Agency has determined that the change in the number of swine slaughtered, as well as the number of condemned carcasses and parts to be disposed of, will be very small and thus will not have a significant individual or cumulative effect on the human environment. Therefore, this regulatory action is appropriately subject to the categorical exclusion from the preparation of an EA or EIS provided under 7 CFR 1b.4(b)(6) of the USDA regulations.

XIII. Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995, the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to OMB.

Title: Swine Slaughter Inspection.

Type of Collection: New.

Abstract: Under this proposed rule, establishments operating under NSIS would have to develop, implement, and maintain in their HACCP systems written procedures for the segregation, identification, and disposition of animals exhibiting signs of moribundity, central nervous system disorders, or pyrexia. In addition, each official swine slaughter establishment would need to maintain, as part of its HACCP system, written procedures for (1) preventing throughout the entire slaughter and dressing operation, contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk and (2) preventing contamination of the pre-operational environment by enteric pathogens. The procedures addressing prevention of contamination by enteric pathogens would need to include microbial testing. Furthermore, all swine slaughter establishments operating would have to maintain records that document that the products resulting from its slaughter operations meet the definition of RTC pork products. Each establishment operating under the NSIS would also need to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers.

The requirement that swine slaughter establishments have written procedures in their HACCP systems is already covered under an approved information collection system, Pathogen Reduction/Hazard Analysis and Critical Control Point Systems (OMB control number 0583–0103). Therefore, this requirement of this proposed rule would create no new burden on establishments.

The proposed requirement that swine slaughter establishments monitor their systems through microbial testing and recordkeeping would create a new information collection burden. For each sample on which a microbiological test is conducted, there are two ''responses'' for the establishment: One response for the actual collecting of the sample and sending it to the laboratory for analysis, and the other for recording the sample result. Under the proposed rule, large establishments would test and record microbiological results for enteric pathogens, at both pre-evisceration and post-chill, 13 times a day; small high-volume establishments, one-time a day; and small low-volume and very small establishments, 13 times a year. FSIS estimates that large establishments would test and record microbial results for the pre-operational environment weekly; small establishments, biweekly; small low-volume and very small establishments, monthly.

Estimated Annual Recordkeeping Burden: Swine Slaughter Inspection.

Respondents: Official swine establishments.

Estimated Number of Respondents: 612 (28 large, 51 small high volume, 54 small low volume, and 479 very small).

Estimated Average Annual Number of Responses (samples) per Respondent: Large establishments 6,846; small high volume establishments 430; and small low volume and very small establishments 25.

Estimated Total Annual Responses: 226,558.

Estimated Total Annual Recordkeeping Burden: 9,440 hours.

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per respone in minutes	Total annual burden hours
Large establishments	Microbial testing data recordkeeping.	28	6,846	191,688	2.5	7,987
Small high volume establishments.	Microbial testing data recordkeeping.	49	430	21,070	2.5	878
Small low volume establishments.	Microbial testing data recordkeeping.	54	25	1,350	2.5	56
Very small establishments ..	Microbial testing data recordkeeping.	479	25	11,975	2.5	499
Total Recordkeeping Burden for process control.	.....	612	7,326	226,083	.....	9,420

Estimated Annual Reporting Burden: Swine Slaughter Inspection.

Respondents: Official swine establishments.

Estimated Number of Respondents: 612 (28 large, 51 small high volume, 54 small low volume, and 479 very small).

Estimated Average Annual Number of Responses per Respondent: Large establishments 6,846; small high volume establishments 430; and small low volume and very small establishments 25.

Estimated Total Annual Responses: 226,083.

Estimated Total Annual Recordkeeping Burden: 47,655 hours.

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per respone in minutes	Total annual burden hours
Large establishments	Microbial testing data recordkeeping.	28	6,846	191,688	12.5	39,702
Small high volume establishments.	Microbial testing	49	430	21,070	12.5	4,389
Small low volume establishments.	Microbial testing	54	25	1,350	15	338
Very small establishments ..	Microbial testing	479	25	11,975	15	2,993
Total Reporting Burden	.....	612	7,326	226,083	.....	47,655

FSIS is also proposing a new regulation that would create a new information collection burden, in that it would require that market hog slaughter establishments operating under NSIS submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers. This is a new recordkeeping requirement that FSIS has submitted to OMB for approval.

Estimated Annual Reporting Burden for Submitting an Annual Attestation on Work-Related Conditions to the FSIS Circuit Safety Committee: Swine Slaughter Inspection.

Respondents: Official market hog slaughter establishments that operate under NSIS.

Estimated Maximum Number of Respondents: 41.

Estimated Average Annual Number of Responses per Respondent: Large establishments 1; small high volume establishments 1.

Estimated Maximum Total Potential Annual Responses: 41.

Estimated Total Annual Recordkeeping Burden: 1.37 hours.

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per respone in minutes	Total annual burden hours
Large establishments	Attestation on Work-Related Conditions.	28	1	28	2	.93

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per respone in minutes	Total annual burden hours
Small high volume establishments.	Attestation on Work-Related Conditions.	13	1	49	2	.43
Total Reporting Burden	.....	41	1	41	.....	1.37

SUMMARY OF BURDEN SWINE SLAUGHTER INSPECTION

Total No. Respondents	612
Average Annual No. Responses per Respondent ..	14,693
Total Annual Responses	453,157
Average Hours per Response	.125
Total Annual Burden Hours ..	57,216.37

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to both Gina Kouba, Office of Policy and Program Development, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253. To be most effective, comments should be sent within 60 days of the publication date of this proposed rule. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

XIV. Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

XV. Proposed Regulatory Amendments

List of Subjects

9 CFR Part 301

Meat inspection.

9 CFR Part 309

Animal diseases, meat inspection, reporting and recordkeeping requirements.

9 CFR Part 310

Animal diseases, meat inspection.

For the reasons stated in the preamble, FSIS is proposing to amend 9 CFR Chapter III as follows:

PART 301—TERMINOLOGY; ADULTERATION AND MISBRANDING STANDARDS

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 138–138i, 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, 2.53.

■ 2. Amend § 301.2 by adding the definition of ''Ready-to-cook (RTC) pork product'' in alphabetical order to read as follows:

§ 301.2 Definitions.

* * * * *

Ready-to-cook (RTC) pork product. Any slaughtered pork product free from bile, hair, scurf, dirt, hooves, toe nails, claws, bruises, edema, scabs, skin lesions, icterus, foreign material, and odor, which is suitable for cooking without need of further processing.

* * * * *

PART 309—ANTE-MORTEM INSPECTION

■ 3. The authority citation for part 309 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 4. Add § 309.19 to read as follows:

§ 309.19 Market hog segregation under the new swine slaughter inspection system.

(a) The establishment must conduct market hog sorting activities before the animals are presented for ante-mortem inspection. Market hogs exhibiting signs of moribundity, central nervous system disorders, or pyrexia must be disposed of according to paragraph (c) of this section.

(b) The establishment must develop, implement, and maintain written procedures to ensure that market hogs exhibiting signs of moribundity, central nervous system disorders, or pyrexia do not enter the official establishment to be slaughtered. The establishment must incorporate these procedures into its HACCP plan, or sanitation SOP, or other prerequisite program.

(c) The establishment must identify carcasses of livestock that establishment employees have sorted and removed from slaughter or that FSIS inspectors have condemned on ante-mortem inspection with a unique tag, tattoo, or similar device. The establishment must immediately denature all major portions of the carcass on-site and dispose of the carcass according to 9 CFR part 314.3.

(d) The establishment must maintain records to document the number of animals disposed of per day because they were removed from slaughter by establishment sorters before ante-mortem inspection by FSIS inspectors. These records are subject to review and evaluation by FSIS personnel.

(e) The establishment must immediately notify FSIS inspectors if the establishment has reason to believe that market hogs may have a notifiable animal disease. Notifiable animal diseases are designated by World Animal Health Organization.

PART 310—POST-MORTEM INSPECTION

■ 5. The authority citation for part 310 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 6. Amend § 310.1 by revising paragraph (b)(3) to read as follows:

§ 310.1 Extent and time of post-mortem inspection; post-mortem inspection staffing standards.

* * * * *

(b) * * *

(3) *Swine Inspection.* There are two systems of post-mortem inspection: The New Swine Slaughter Inspection System (NSIS), which may be used for market hogs, and the traditional inspection system, which may be used for all swine.

(i) The NSIS may be used for market hogs if the official establishment requests to use it and meets or agrees to meet the requirements in 9 CFR 309.19 and 9 CFR 310.26. The Administrator may permit establishments that slaughter classes of swine other than market hogs to use NSIS under a waiver from the provisions of the regulations as provided by 9 CFR 303.1(h). The Administrator also may permit establishments that slaughter market hogs and other classes of swine to slaughter market hogs under NSIS and slaughter other classes of swine under traditional inspection.

(ii) Traditional inspection shall be used for swine when NSIS is not used. The following inspection staffing standards are applicable to swine slaughter configurations operating under traditional inspection when NSIS is not used. The inspection standards for all slaughter lines are based upon the observation rather than palpation, at the viscera inspection station, of the spleen, liver, heart, lungs, and mediastinal lymph nodes. In addition, for one- and two-inspector lines under traditional inspection, the standards are based upon the distance walked (in feet) by the inspector between work stations; and for three or more inspector slaughter lines, upon the use of a mirror, as described in § 307.2(m)(6) of this chapter, at the carcass inspection station. Although not required in a one- or two-inspector slaughter configuration, except in certain cases as determined by the inspection service, if a mirror is used, it must comply with the requirements of § 307.2(m)(6).

* * * * *

■ 7. Amend § 310.18 by adding paragraphs (c) through (e) to read as follows:

§ 310.18 Contamination of carcasses, organs, or other parts.

* * * * *

(c) *Procedures for controlling contamination throughout the slaughter and dressing operation.* Official swine slaughter establishments must develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens, fecal, ingesta, and milk contamination throughout the entire slaughter and dressing operation. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs. These procedures must include sampling and analysis for microbial organisms in accordance with the sampling location and frequency requirements in paragraphs (c)(1) and (2) of this section to monitor their ability to maintain process control.

(1) *Sampling locations.* Official swine slaughter establishments, except for very small establishments or very low volume establishments, must collect and analyze samples for microbial organisms at the pre-evisceration and post-chill points in the process. Very small establishments and very low volume establishments must collect and analyze samples for microbial organisms at the post-chill point in the process. All swine establishments must sponge or excise tissue from the ham, belly, or jowl areas.

(i) Very small establishments are establishments with fewer than 10 employees or annual sales of less than $2.5 million.

(ii) Very low volume establishments annually slaughter no more than 20,000 swine, or a combination of swine and other livestock not exceeding 6,000 cattle and 20,000 total of all livestock.

(iii) An establishment may substitute alternative sampling locations if:

(A) The establishment has support to demonstrate the alternative sampling locations are able to provide a definite improvement in monitoring process control than at pre-evisceration and post-chill; and

(B) FSIS does not determine, and notify the establishment in writing, that the alternative sampling locations are inadequate to verify the effectiveness of the establishment's process controls for enteric pathogens.

(2) *Sampling frequency.* Establishments, except for very small and very low volume establishments as defined in paragraphs (c)(1)(i) and (ii) of this section, must collect and analyze samples at a frequency proportional to the establishment's volume of production at the following rates:

(i) Establishments, except for very small and very low volume establishments as defined in paragraphs (c)(1)(i) and (ii) of this section, must collect and analyze samples at a frequency of once per 1,000 carcasses, but a minimum of once during each week of operation.

(ii) Very small and very low volume establishments as defined in paragraph (c)(1)(i) and (ii) of this section must collect and analyze samples at least once during each week of operation starting June 1 of every year. If, after consecutively collecting 13 weekly samples, very small and very low volume establishments can demonstrate that they are effectively maintaining process control, they may modify their sampling plans.

(iii) An establishment may substitute an alternative frequency if:

(A) The alternative is an integral part of the establishment's verification procedures for its HACCP plan; and

(B) FSIS does not determine, and notify the establishment in writing, that the alternative frequency is inadequate to verify the effectiveness of the establishment's process controls for enteric pathogens.

(iv) Establishments must sample at a frequency that is adequate to monitor their ability to maintain process control for enteric pathogens. Establishments must maintain accurate records of all test results and retain these records as provided in paragraph (e) of this section.

(d) *Procedures for controlling contamination in the pre-operational environment.* Official swine slaughter establishments must develop, implement, and maintain written procedures to prevent contamination of the pre-operational environment by enteric pathogens. Establishments must incorporate these procedures into their HACCP plans, sanitation SOPs, or other prerequisite programs. These procedures must include sampling and analysis of food contact surfaces in the pre-operational environment for microbial organisms to ensure that the surfaces are sanitary and free of enteric pathogens and that water used to clean food contact surfaces is free of enteric pathogens. The sampling frequency must be adequate to monitor the establishment's ability to maintain sanitary conditions in the pre-

operational environment. Establishments must maintain accurate records of all test results and retain these records as provided in paragraph (e) of this section.

(e) *Recordkeeping requirements.* Official swine slaughter establishments must maintain daily records sufficient to document the implementation and monitoring of the procedures required under paragraphs (c), (d) and (e) of this section. Records required by this section may be maintained on computers if the establishment implements appropriate controls to ensure the integrity of the electronic data. Records required by this section must be maintained for at least one year and must be accessible to FSIS.

■ 8. Amend § 310.25 as follows:

■ a. Remove paragraph (a)(2)(ii)(C);

■ b. Remove the second sentence in paragraph (a)(2)(iii)(A);

■ c. Remove ''20,000 swine,'' in paragraph (a)(2)(v)(A);

■ d. Remove the ''swine'' row in Table 1—Evaluation of E. Coli Test Results;

■ e. Remove the ''Hogs'' and ''fresh pork sausages'' rows and footnote (b) from Table 2—Salmonella Performance Standards.

■ 9. Add § 310.26 to read as follows:

§ 310.26 Establishment responsibilities under the new swine slaughter inspection system.

(a) *Facilities.* The establishment must comply with the facilities requirements in 9 CFR part 307. If the establishment has less than three inspection stations, the establishment must provide a mirror at the carcass inspection station in accordance with 9 CFR 307.2(m)(6).

(b) *Carcass sorting and disposition.* The establishment must conduct carcass sorting activities and identify any condemnable conditions or defects before carcasses are presented to online inspectors. The establishment must develop, implement, and maintain written procedures to ensure that market hog carcasses contaminated with septicemia, toxemia, pyemia, or cysticercosis are properly removed before the point of post-mortem inspection of carcasses. The establishment must incorporate these procedures into its HACCP plan, or sanitation SOP, or other prerequisite program. These procedures must cover establishment sorting activities required under this section.

(c) *Line speed limits.* The line speed limits in 9 CFR 310.1 do not apply to the establishment, provided that they are able to maintain effective process control and prevent contamination of carcasses and parts by fecal material and enteric pathogens. Establishments operating under NSIS must reduce their line speed as directed by the Inspector-in-Charge (IIC). The IIC is authorized to direct an establishment to operate at a reduced line speed when in their judgment a carcass-by-carcass inspection cannot be adequately performed within the time available due to the manner in which the carcasses are presented to the online inspector, the health conditions of a particular herd, or factors that may indicate a loss of process control.

(d) *Records.* (1) The establishment must maintain records to document that the products resulting from its slaughter operation meet the definition of ready-to-cook pork product in 9 CFR 301.2. These records are subject to review and evaluation by FSIS personnel.

(2) The establishment must maintain records to document the number of animals disposed of per day by plant sorters or condemned per day by FSIS inspectors upon post-mortem inspection. These records are subject to review and evaluation by FSIS personnel.

■ 10. Add § 310.27 to read as follows:

§ 310.27 Attestation requirements.

Each establishment that participates in the New Swine Slaughter Inspection System (NSIS) must submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers, and that the program includes the following elements:

(a) Policies to encourage early reporting of symptoms of injuries and illnesses, and assurance that it has no policies or programs in place that would discourage the reporting of injuries and illnesses.

(b) Notification to employees of the nature and early symptoms of occupational illnesses and injuries, in a manner and language that workers can understand, including by posting in a conspicuous place or places where notices to employees are customarily posted, a copy of the FSIS/OSHA poster encouraging reporting and describing reportable signs and symptoms.

(c) Monitoring, on a regular and routine basis, injury and illness logs, as well as nurse or medical office logs, workers' compensation data, and any other injury or illness information available.

■ 11. Add § 310.28 to read as follows:

§ 310.28 Severability.

Should a court of competent jurisdiction hold any provision of 9 CFR 310.27 to be invalid, such action will not affect any other provision of 9 CFR parts 309 or 310.

Done in Washington, DC, on January 19, 2018.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–01256 Filed 1–31–18; 8:45 am]

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FEDERAL REGISTER

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Part III

Legal Services Corporation

45 CFR Part 1603

State Advisory Councils and Requests for Documents and Testimony; Proposed Rules

LEGAL SERVICES CORPORATION

45 CFR Part 1603

State Advisory Councils

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rulemaking would remove the Legal Services Corporation's (LSC) regulation on state advisory councils. LSC believes this action is appropriate because the state advisory councils are no longer active and their oversight functions have been replaced adequately by other offices and processes established by Congress or LSC. Executive Orders 13563, ''Improving Regulation and Regulatory Review,'' and 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' direct agencies to review their existing regulations and repeal or revise any that are obsolete or unnecessarily burdensome. Although LSC is not an agency of the Federal government subject to either executive order, LSC regularly reviews its regulations and has determined that this regulation can be eliminated.

DATES: Comments must be received by March 5, 2018.

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

- *Federal Rulemaking Portal:* Follow the instructions for submitting comments.
- *Email: lscrulemaking@lsc.gov.* Include ''Part 1603 Rulemaking'' in the subject line of the message.
- *Fax:* (202) 337–6519.
- *Mail:* Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1603 Rulemaking.
- *Hand Delivery/Courier:* Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1603 Rulemaking.

Instructions: LSC prefers electronic submissions via email with attachments in Acrobat PDF format. LSC will not consider written comments sent to any other address or received after the end of the comment period.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007; (202) 295–1563 (phone), (202) 337–6519 (fax), or *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 1004(f) of the Legal Services Corporation Act of 1974 required that ''within six months after the first meeting of the Board, the Board request the Governor of each State to appoint a nine-member advisory council for each state.'' 42 U.S.C. 2996c(f). If ninety days elapsed without the Governor's appointing the advisory council, then ''the Board [was] authorized to appoint such a council.'' *Id.* LSC implemented this statutory requirement in 1975 at 45 CFR part 1603.

The state advisory councils' primary duty was to notify LSC of any ''apparent violation'' by a recipient. 45 CFR 1603.5. LSC defined ''apparent violation'' as ''a complaint or other written communication alleging facts which, if established, constitute a violation of the [LSC] Act, or any applicable rules, regulations or guidelines promulgated pursuant to the Act.'' *Id.* 1603.2(b).

LSC met the requirements of section 1004(f) of the LSC Act by requesting state governors to appoint state advisory councils within the period established by the Act and part 1603. In 1976, 46 state advisory councils were in existence, but later reports reflect that many of these councils rarely, if ever, met. Letter from Suzanne B. Glasow, Senior Counsel for Operations and Regulations, Office of General Counsel, to Mike Sims, Office of Rep. Pete Laney at 1 (Sept. 19, 1989). By 1983, only six state advisory councils appeared to be operational and by 1989, only Colorado and Indiana had functioning state advisory councils. *Id.* To the best of LSC's knowledge, there currently are no active state advisory councils. Furthermore, LSC has no records of complaints forwarded from the state advisory councils.

II. History of This Rulemaking

In 2014, LSC's Office of the Inspector General (OIG) recommended that LSC either ensure that the state advisory councils are established and operational or rescind part 1603. LSC proposes to rescind part 1603 for four reasons: (1) LSC complied with the requirements of section 1004(f) of the LSC Act by requesting state governors to appoint state advisory councils within the period established by the Act and part 1603; (2) section 1004(f) of the LSC Act and part 1603 provide LSC with discretion to exercise or not exercise the option to appoint state councils; (3) to LSC's knowledge, there are no functioning state advisory councils; and (4) there are now numerous oversight mechanisms that fulfill the function of the state advisory councils.

At its January 2015 meeting, the Operations and Regulations Committee (Committee) of LSC's Board of Directors (Board) recommended including the repeal of part 1603 on LSC's regulatory agenda, but made the initiative a low priority.

On January 30, 2017, the President signed Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' Through this Executive order, the President directed the heads of executive departments and agencies to identify at least two prior regulations to be repealed for each new regulation issued. By operation of the LSC Act, LSC is not an executive department or agency subject to the Executive order. 42 U.S.C. 2996d(e). Consistent with the intent of the Executive order to reduce unnecessary regulations, however, LSC prioritized the repeal of part 1603.

Prior to initiating rulemaking, LSC conducted an analysis of the oversight mechanisms that have developed since the LSC Act was passed in 1974. LSC determined that the state advisory councils' oversight functions have been replaced adequately by other offices and processes established by Congress or LSC since 1974. Complainants not only have more audiences—including LSC's OIG, LSC's Office of Compliance and Enforcement (OCE), and state bodies—for their complaints, but they also have more vehicles for filing complaints, including by phone, postal mail, email, online, and through grantee grievance procedures. Furthermore, the OIG, OCE, and state bodies go beyond the state advisory committees' narrow role of collecting alleged violations by also investigating the allegations and using various tools to ensure grantee compliance. LSC's analysis of these existing oversight mechanisms is covered in greater detail in the Justification Memorandum for Rulemaking to Rescind 45 CFR part 1603—State Advisory Councils, *available at www.lsc.gov/rulemaking.*

On April 23, 2017, the Committee approved Management's proposed 2017–2018 rulemaking agenda, which included rescinding 45 CFR part 1603 as a priority rulemaking item. On October 15, 2017, the Committee voted to recommend that the Board authorize LSC to begin rulemaking on part 1603. On October 17, 2017, the Board authorized LSC to begin rulemaking. On January 21, 2018, the Committee voted to recommend that the Board authorize publication of this NPRM. On January 23, 2018, the Board authorized publication of the NPRM with a 30-day comment period.

III. Discussion of the Proposed Changes

LSC proposes to remove part 1603. In an NPRM published elsewhere in this

issue of the **Federal Register**, LSC proposes to add to part 1603 a regulation governing requests for testimony and subpoenas for documents in cases to which LSC is not a party.

List of Subjects in 45 CFR Part 1603

Advisory committees; Legal services.

■ For the reasons discussed in the preamble and under the authority of 42 U.S.C. 2996g(e), LSC proposes to remove 45 CFR part 1603.

PART 1603—[REMOVED AND RESERVED]

Dated: January 25, 2018.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2018–01733 Filed 1–31–18; 8:45 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

45 CFR Part 1603

Requests for Documents and Testimony

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Legal Services Corporation (LSC) proposes to create a rule governing subpoenas and requests for LSC documents and testimony by non-federal litigants in cases in which LSC is not a party. Currently, LSC has no internal or external procedures in place to process such requests. This rule provides the public with guidance on where to send requests and establishes procedures by which those requests will be processed.

DATES: Comments must be received by March 5, 2018.

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

- *Federal Rulemaking Portal:* Follow the instructions for submitting comments.
- *Email: lscrulemaking@lsc.gov.* Include ''Touhy Rulemaking'' in the subject line of the message.
- *Fax:* (202) 337–6519.
- *Mail:* Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Touhy Rulemaking.
- *Hand Delivery/Courier:* Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Touhy Rulemaking.
- *Instructions:* LSC prefers electronic submissions via email with attachments in Acrobat PDF format. LSC will not consider written comments sent to any other address or received after the end of the comment period.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, 202–295–1563, *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

LSC proposes to create a new regulation, known as a *Touhy* regulation, that will establish a process by which litigants in cases where LSC is not a party may obtain documents or testimony from LSC and its employees. Arising from the Supreme Court's decision in *U.S. ex rel Touhy* v. *Ragen,* 340 U.S. 462 (1951), *Touhy* regulations define agencies' procedures for responding to document or testimony requests, as well as individual agency employees' obligation to follow such procedures.

Between 2013 and 2017, LSC and its Office of the Inspector General (OIG) received several subpoenas and requests for testimony or documents, but did not have internal or external guidance in place regarding such requests. At the OIG's recommendation, LSC added rulemaking on requests for documents and testimony to its rulemaking agenda in 2015. On October 15, 2017, the Operations and Regulations Committee (Committee) of LSC's Board of Directors (Board) voted to recommend that the Board authorize rulemaking on part 1603. On October 17, 2017, the Board authorized LSC to begin rulemaking.

Regulatory action is justified for four reasons. First, a *Touhy* regulation will promote efficiency and timeliness by identifying those LSC officials with the authority to respond to requests or subpoenas for documents or testimony and establishing a procedure for LSC's consideration of such requests. Second, it will minimize the possibility of involving LSC in controversies not related to its functions. Third, it will prevent the misuse of LSC's employees as involuntary expert witnesses for private interests or as inappropriate expert witnesses as to the state of the law. Fourth, it will maintain LSC's impartiality toward private litigants.

On January 21, 2018, the Committee voted to recommend that the Board approve this notice of proposed rulemaking (NPRM) for publication. On January 23, 2018, the Board accepted the Committee's recommendation and voted to approve publication of this NPRM with a 30-day comment period.

II. Discussion of Proposed Rule

In an NPRM published elsewhere in this issue of the **Federal Register**, LSC proposes to remove the existing version of part 1603 pertaining to state advisory councils. In its place, LSC proposes to add this regulation.

1603.1 Scope, Purpose, and Applicability

LSC proposes to prescribe which proceedings and employees will be governed by the rule. All LSC employees, including former employees, members of the Board of Directors, and employees of the OIG, are governed by this rule concerning information acquired during the performance of official duties or because of such person's official capacity with LSC. This rule applies to all non-federal litigants in civil, criminal, or administrative proceedings to which LSC is not a party.

Congress created LSC through the Legal Services Corporation Act, 42 U.S.C. 2996 *et seq.* and appropriates funds for LSC annually. *See, e.g.,* Consolidated Appropriations Act, 2017, Public Law 115–31, 131 Stat. 135 (2017). These funds are appropriated for LSC to fulfill its congressionally-mandated mission. Therefore, it is appropriate to mirror traditional federal entities in creating LSC's *Touhy* regulation.

1603.2 Definitions

LSC proposes to define the following terms.

Certify: LSC proposes to define this term to mean that it will authenticate copies of any document produced by affixing its seal to the document.

Employee: LSC proposes to define this term to include current and former employees of LSC and the OIG, as well as members of its Board of Directors.

LSC: Consistent with the § 1602.2 definition, *LSC* refers to both the Legal Services Corporation and the LSC Office of the Inspector General, unless otherwise specified.

Testify and *testimony:* LSC proposes to define these terms to mean written or oral statements made under oath before any tribunal or official body.

1603.3 What is LSC's policy on presentation of testimony and production of documents?

LSC proposes to prohibit current and former employees from providing documents or testimony in response to requests covered by this rule without prior authorization from the General Counsel or OIG Legal Counsel.

1603.4 How does a person request voluntary testimony from an employee?

LSC proposes to require parties to submit requests for testimony from LSC employees to its General Counsel as

LSC's chief legal officer. LSC proposes to direct parties to submit requests for OIG employees' testimony to the OIG Legal Counsel.

Requests must state the nature of the requested testimony, why the information sought is unavailable by any other means, and the reasons why providing the testimony would further LSC's interests. This information will assist the General Counsel and the OIG Legal Counsel in their decision making.

1603.5 How will LSC respond to a request for expert testimony from an employee?

LSC proposes to prohibit its employees from serving as expert witnesses without authorization from the General Counsel or OIG Legal Counsel, as appropriate. This section prevents public resources from being used for private litigation. Even if employees and LSC are compensated, time spent preparing and delivering testimony is time diverted from support of LSC's mission.

1603.6 How will LSC respond to a subpoena for documents?

LSC proposes procedures for its employees to follow if they are personally served with subpoenas requesting information acquired in the course of performing official duties or because of their official capacity. This provision has the dual benefits of providing guidance for subpoenaed employees and instructing members of the public how to request the information they seek.

Consistent with Federal agencies' *Touhy* regulations, LSC proposes to treat legally insufficient subpoenas as FOIA requests. Thus, LSC may work toward honoring the spirit of the subpoena without violating its obligations and privileges. Furthermore, LSC's interests in remaining transparent and in conserving the public's trust are best served by providing public information when requested. LSC also proposes to direct employees to appear before the court and state that they cannot, consistent with these rules, provide the required documents when the General Counsel or OIG Legal Counsel has not made a decision about the legal sufficiency of a subpoena by the date on which an LSC or OIG employee is commanded to appear. Without this provision, such individuals would be faced with violating a court order or violating LSC rules and policies when responding to a subpoena. LSC proposes that the General Counsel or OIG Legal Counsel may determine that responding to the subpoena is not appropriate and direct an employee not to respond. Examples of when responding may be inappropriate include instances where the subpoena was not validly issued or served, where the subpoena has been withdrawn, or where discovery has been stayed.

1603.7 When will LSC certify the authenticity of records?

LSC proposes to certify, upon request, the authenticity of records to be disclosed. Such a service does not generally use significant resources.

1603.8 Does this part give individuals any rights?

LSC proposes this section to make clear that no private rights arise from this rule.

List of Subjects in 45 CFR Part 1603

Administrative practice and procedure; Archives and records; Courts.

■ For the reasons discussed in the preamble, the Legal Services Corporation proposes to add 45 CFR part 1603 to read as follows:

PART 1603—TESTIMONY BY EMPLOYEES AND PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE THE UNITED STATES IS NOT A PARTY

Sec.

1603.1 Scope, purpose, and applicability.
1603.2 Definitions.
1603.3 What is LSC's policy on presentation of testimony and production of documents?
1603.4 How does a person request voluntary testimony from an employee?
1603.5 How will LSC respond to a request for expert testimony from an employee?
1603.6 How will LSC respond to a subpoena for documents?
1603.7 When will LSC certify the authenticity of records?
1603.8 Does this part give individuals any rights?

Authority: 42 U.S.C. 2996g(e).

§ 1603.1 Scope, purpose, and applicability.

(a) This part sets forth rules to be followed when a litigant requests an employee of the Legal Services Corporation (LSC), including LSC's Office of the Inspector General (OIG), to provide testimony in a deposition, trial, or other similar proceeding concerning information acquired in the course of performing official duties or because of such person's official capacity with LSC. This part also sets forth procedures for the handling of subpoenas for documents and other requests for documents in the possession of LSC or the OIG, and for the processing of requests for certification of copies of documents.

(b) It is LSC's policy to provide information, data, and records to non-federal litigants to the same extent and in the same manner that they are made available to the public. When subject to the jurisdiction of a court or other tribunal presiding over litigation between non-federal parties, LSC will follow all applicable procedural and substantive rules relating to the production of information, data, and records by a non-party. The availability of LSC employees to testify in litigation not involving federal parties is governed by LSC's policy to maintain strict impartiality with respect to private litigants and to minimize the disruption of official duties.

(c) This part applies to state, local, and tribal judicial, administrative, and legislative proceedings, and to federal judicial and administrative proceedings.

(d) This part does not apply to:

(1) Any civil or criminal proceedings to which LSC is a party.

(2) Congressional requests or subpoenas for testimony or documents.

(3) Consultative services and technical assistance provided by LSC in carrying out its normal program activities.

(4) Employees serving as expert witnesses in connection with professional and consultative services as approved outside activities. In cases where employees are providing such outside services, they must state for the record that the testimony represents their own views and does not necessarily represent the official position of LSC.

(5) Employees making appearances in their private capacity in legal or administrative proceedings that do not relate to LSC, such as cases arising out of traffic accidents, crimes, domestic relations, etc., and not involving professional and consultative services.

(6) Any civil or criminal proceedings in State court brought on behalf of LSC.

(7) Any criminal proceeding brought as a result of a referral for prosecution by the OIG or by any other Inspector General in connection with a case worked jointly with the OIG.

§ 1603.2 Definitions.

(a) *Certify* means to authenticate official LSC documents.

(b) *Employee* means current and former LSC employees, including temporary employees, OIG employees, and members of the Board of Directors.

(c) *LSC* means the Legal Services Corporation. Unless explicitly stated otherwise, LSC includes the OIG.

(d) *Testify* and *testimony* include in-person, oral statements before a court, legislative or administrative body and

statements made pursuant to depositions, interrogatories, declarations, affidavits, or other formal participation.

§ 1603.3 What is LSC's policy on presentation of testimony and production of documents?

In any proceedings to which this part applies, no employee may provide testimony or produce documents concerning information acquired in the course of performing official duties or because of the person's official relationship with LSC unless authorized by the General Counsel or the OIG Legal Counsel pursuant to this part based on his determination that compliance with the request would promote LSC's objectives.

§ 1603.4 How does a person request voluntary testimony from an employee?

(a) All requests for testimony by an employee in his or her official capacity and not subject to the exceptions set forth in § 1603.1(d) of this part must be in writing and addressed to the General Counsel.

(b) All requests for testimony by an employee of the OIG must be in writing and addressed to the OIG Legal Counsel.

(c) Requests must state the nature of the requested testimony, why the information sought is unavailable by any other means, and the reasons why the testimony would be in the interest of LSC.

§ 1603.5 How will LSC respond to a request for expert testimony from an employee?

No employee shall serve as an expert witness in any proceeding described in § 1603.1(c) or before a court or agency of the United States unless the General Counsel or the OIG Legal Counsel authorizes the employee's participation.

§ 1603.6 How will LSC respond to a subpoena for documents?

(a) Whenever a subpoena commanding the production of any LSC record has been served upon an employee, the employee shall refer the subpoena to the General Counsel or the OIG Legal Counsel, as appropriate. The General Counsel or the OIG Legal Counsel shall determine whether the subpoena is legally sufficient, whether the subpoena was properly served, and whether the issuing court or other tribunal has jurisdiction over LSC. If the General Counsel or the OIG Legal Counsel determines that the subpoena satisfies all three factors, LSC shall comply with the terms of the subpoena unless LSC takes affirmative action to modify or quash the subpoena in accordance with Fed. R. Civ. P. 45 (c).

(b) If a subpoena commanding the production of any record served upon an employee is determined by the General Counsel or the OIG Legal Counsel to be legally insufficient, improperly served, or from a tribunal not having jurisdiction, LSC shall deem the subpoena a request for records under the Freedom of Information Act. LSC shall handle the subpoena pursuant to the rules governing public disclosure established in 45 CFR part 1602.

(c) If the General Counsel or the OIG Legal Counsel denies approval to comply with a subpoena for testimony or has not acted by the return date, the employee will be directed to appear at the stated time and place, unless advised by the General Counsel or the OIG Legal Counsel that responding to the subpoena would be inappropriate. The employee will be directed to produce a copy of these regulations and respectfully decline to testify or produce any documents on the basis of these regulations.

§ 1603.7 When will LSC certify the authenticity of records?

Upon request, LSC will certify the authenticity of copies of records that are to be disclosed. The requesting party will be responsible for reasonable fees for copying and certification.

§ 1603.8 Does this part give individuals any rights?

This part is intended only to provide a process for receipt and processing of private litigants' requests for LSC documents and testimony. It does not, and may not be relied upon, to create a right or benefit, substantive or procedural, enforceable at law by a party against LSC.

Dated: January 25, 2018.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2018–01731 Filed 1–31–18; 8:45 am]

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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