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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0026; Product Identifier 2016–NM–157–AD; Amendment 39–19175; AD 2018–03–02]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain 328 Support Services GmbH Model 328–300 airplanes. This AD requires contacting the FAA to obtain instructions for addressing the unsafe condition on these products, and doing the actions specified in those instructions. This AD was prompted by a determination that incomplete inspection instructions exist for the skin under outer and inner doublers left installed after the removal of a certain data link system. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective February 23, 2018.

We must receive comments on this AD by March 26, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0026; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone: 425–227–1175; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0155, dated August 2, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain 328 Support Services GmbH Model 328–300 airplanes. The MCAI states:

> The Teledyne Telelink System, installed in accordance with FAA Supplemental Type certificate (STC) SA09839S, has been removed from Dornier 328–300 aeroplanes. After removal, the outer and inner doubler, installed per STC instructions, have been left installed. These structural parts, not being part of the original aeroplane design, are not addressed by the aeroplane Instructions for Continued Airworthiness, and no specific inspections instructions for the skin under the doublers are available. Consequently, a crack under the installed doublers cannot be detected as per standard maintenance program.
>
> This condition could lead to undetected skin cracks that, if not corrected, could lead to skin failure, possibly resulting in a rapid depressurization of the aeroplane and consequently injury to occupants or loss of structural integrity of the aeroplane.
>
> To address this unsafe condition, 328 Support Services issued Service Bulletin SB–328J–53–320 that introduces a repetitive inspection, and defines as well maintenance requirements due to differences to the original Type Certificate-configuration.
>
> For the reason stated above, this [EASA] AD requires repetitive inspection of skin doublers and structural members and, depending on findings, accomplishment of structural repair.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0026.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, we find good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason(s) stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0026; Product Identifier 2016–NM–157–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may

amend this AD based on 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 AD.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. This AD requires contacting the FAA to obtain instructions for addressing the unsafe condition, and doing the actions specified in those instructions. Based on the actions specified in the MCAI AD, we are providing the following cost estimates for an affected airplane that is placed on the U.S. Register in the future:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection	5 work-hours × $85 per hour = $425 per inspection cycle.	$0 per inspection cycle	$425 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for any on-condition actions.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–03–02 328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Amendment 39–19175; Docket No. FAA–2018–0026; Product Identifier 2016–NM–157–AD.

(a) Effective Date

This AD becomes effective February 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to 328 Support Services GmbH Model 328–300 airplanes, certificated in any category, serial numbers 3145, 3149, 3161, 3171, 3181, and 3185.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that incomplete inspection instructions exist for the skin under outer and inner doublers left installed after the removal of a certain data link system. We are issuing this AD to detect and correct skin cracks that could lead to skin failure and possible rapid depressurization and the subsequent loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Action(s)

Within 30 days after the effective date of this AD, request instructions from the Manager, International Section, Transport Standards Branch, FAA, to address the unsafe condition specified in paragraph (e) of this AD; and accomplish the action(s) at the times specified in, and in accordance with, those instructions. Guidance can be found in Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) AD 2016–0155, dated August 2, 2016.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

(1) Refer to MCAI EASA AD 2016–0155, dated August 2, 2016, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0026.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone: 425–227–1175; fax: 425–227–1149.

(j) Material Incorporated by Reference

None.

Issued in Renton, Washington, on January 25, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–02016 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0523; Airspace Docket No. 17–ACE–9]

Amendment of Class E Airspace; Fort Scott, KS; and Phillipsburg, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Fort Scott Municipal Airport, Fort Scott, KS, and Phillipsburg Municipal Airport, Phillipsburg, KS. This action is required due to the decommissioning of the Fort Scott non-directional radio beacon (NDB) and the Phillipsburg NDB, and the cancellation of the associated instrument approach procedures. This action enhances the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Effective 0901 UTC, May 24, 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 7400.11B 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 amends Class E airspace extending upward from 700 feet above the surface at Fort Scott Municipal Airport, Fort Scott, KS, and Phillipsburg Municipal Airport, Phillipsburg, KS, to support IFR operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 46426; October 5, 2017) for Docket No. FAA–2017–0523 to modify Class E airspace extending upward from 700 feet above the surface at Fort Scott Municipal Airport, Fort Scott, KS, and Phillipsburg Municipal Airport, Phillipsburg, KS. 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 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 amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface:

Within a 6.4-mile radius (reduced from a 7-mile radius) of Fort Scott Municipal Airport, Fort Scott, KS; removing the Fort Scott NDB from the legal description; and removing the extension north of the NDB;

And within a 6.5-mile radius (reduced from a 7.6-mile radius) of Phillipsburg Municipal Airport, Phillipsburg, KS; removing the Phillipsburg NDB from the legal description; and removing the extension southeast of the NDB.

Airspace reconfiguration is necessary due to the decommissioning of the Fort Scott NDB and the Phillipsburg NDB, the cancellation of the associated instrument approach procedures, and to bring the airspace in compliance with FAA Order 7400.2L, Procedures for Handling Airspace Matters. Controlled airspace is necessary for safety and the management of IFR operations at these airports.

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 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 5–6.5.a. 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 FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

ACE KS E5 Fort Scott, KS [Amended]

Fort Scott Municipal Airport, KS
(Lat. 37°47′54″ N, long. 94°46′10″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Fort Scott Municipal Airport.

* * * * *

ACE KS E5 Phillipsburg, KS [Amended]

Phillipsburg Municipal Airport, KS
(Lat. 39°44′09″ N, long. 99°19′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Phillipsburg Municipal Airport.

Issued in Fort Worth, Texas, on January 29, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–02136 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0344; Airspace Docket No. 17–AWP–11]

Modification of Air Traffic Service (ATS) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VOR Federal Airways V–113 and V–244 which caused navigational aid gaps due to the decommissioning of Manteca and Maxwell VORs.

DATES: Effective date 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 7400.11B 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: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

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 the 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 modifies the air traffic service route structure in the western United States to maintain the efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for Docket No. FAA–2017–0344 (82 FR 41182; August 30, 2017). The NPRM proposed to amend two VOR Federal airways, V–113 and V–244, in the western United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received.

Discussion of Comment

The commenter wrote that V–113 should be further revised to remove the Priest, CA, VOR from the route because that VOR is decommissioned.

FAA response: The Priest VOR is in a shutdown status pending formal decommissioning. This rule, in part, corrects the coordinates defining the PATYY intersection in V–113, while further amendment of V–113 is being developed for a later date. In the interim, RNAV-equipped aircraft can continue to navigate along V–113,[1] or they can fly T–329 north-bound or south-bound between the Paso Robles VORTAC and the Panoche VORTAC, at which point they can resume V–113. For non-RNAV equipped aircraft, ATC could provide radar vectors or issue alternative airway routing.

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

[1] Advisory Circular 90–108, Use of Suitable Area Navigation (RNAV) Systems on Conventional Routes and Procedures.

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.

Differences From the NPRM

Subsequent to publication of the NPRM, the FAA identified an error within a set of True (T) and Magnetic (M) coordinates along V–113. The intersection coordinates ''INT Modesto 208°(T) 19(M) and El Nido 277°(T) 262°(M) radials'' were misidentified as PATYY intersection in the NPRM; when in fact these coordinates are for WINDY intersection. The FAA is changing the coordinates to ''INT Modesto 208° (T) 191° (M) and El Nido 298° (T) 283° (M)'' as the correct coordinates for PATYY intersection.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 to amend VOR Federal Airways V–113 and V–244 in the western United States due to the scheduled decommissioning of the Manteca and Maxwell VOR facilities. The routes are outlined below.

V–113: V–113 currently extends between Morro Bay, CA (MQO) and Lewistown, MT (LWT) with a gap between Panoche, CA (PXN) and Linden, CA (LIN). The FAA is filling the gap between Panoche, CA (PXN) and Linden, CA (LIN). The unaffected portions of the existing route will remain as charted.

V–244: V–244 currently extends between Oakland, CA (OAK) and Salina, KS, (SLN). The FAA is relocating the segment of the route from Oakland, CA by rerouting the airway approximately 10 nautical miles north of the previous airway until tied back into the previous route at Coaldale, NV. The unaffected portion of the existing route will remain as charted.

All radials in the regulatory text route descriptions below are stated in True degrees.

VOR Federal airways are published in paragraph 6010(a), 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 VOR Federal airways listed in this document will be subsequently published 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. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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 modifying VOR Federal airways V–113 and V–244 qualifies for categorical exclusion under the National Environmental Policy Act and its agency-specific implementing regulations in FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' regarding categorical exclusions for procedural actions at paragraph 5–6.5a, which categorically excludes from full environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017 and effective September 15, 2017, is amended as follows:

Paragraph 6010—Domestic VOR Federal Airways

V–113 (Amended)

From Morro Bay, CA; Paso Robles, CA; Priest, CA; Panoche, CA; INT Modesto 208° and El Nido 298° radials; Modesto, CA; Linden, CA; INT Linden 046° and Mustang, NV, 208° radials; Mustang; 42 miles, 24 miles, 115 MSL, 95 MSL, Sod House, NV; 67 miles, 95 MSL, 85 MSL, Rome, OR; 61 miles, 85 MSL, Boise, ID; Salmon, ID; Coppertown, MT; Helena, MT; to Lewistown, MT

* * * * *

V–244 (Amended)

From Oakland, CA; INT Oakland 077° and Linden, CA, 246° radials; Linden; 30 miles, 153 MSL, INT Linden 094° and Hangtown, CA, 157° radials; 58 miles, 153 MSL, INT Coaldale, CA, 267° and Friant, CA, 022° radials; 23 miles, 153 MSL, INT Coaldale 267° and Bishop, CA, 337° radials; 43 miles, 125 MSL, Coaldale, NV; Tonopah, NV; 40 miles, 115 MSL, Wilson Creek, NV; 28 miles, 115 MSL, Milford, UT; Hanksville, UT; 63 miles, 13 miles, 140 MSL, 36 miles, 115 MSL, Montrose, CO; Blue Mesa, CO; 33 miles, 122 MSL, 27 miles, 155 MSL, Pueblo, CO; 18 miles, 48 miles, 60 MSL, Lamar, CO; 20 miles, 116 miles, 65 MSL, Hays, KS; to Salina, KS. The airspace within R–2531A and R–2531B is excluded.

Issued in Washington, DC, on January 29, 2018.

Sean E. Hook,

Acting Manager, Airspace Policy Group.

[FR Doc. 2018–02133 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Chapter I

[Docket Number 160526465–8033–03]

RIN 0607–XC026

Final 2020 Census Residence Criteria and Residence Situations

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Final criteria.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is providing notification of the Final 2020 Census Residence Criteria and Residence Situations. In addition, this document contains a summary of comments received in response to the June 30,

2016, **Federal Register** document, as well as the Census Bureau's responses to those comments. The residence criteria are used to determine where people are counted during each decennial census. Specific residence situations are included with the criteria to illustrate how the criteria are applied.

DATES: The final criteria in this document are effective on March 12, 2018.

FOR FURTHER INFORMATION CONTACT: Jason Devine, Population and Housing Programs Branch, U.S. Census Bureau, 6H173, Washington, DC 20233, telephone (301) 763–2381; or Email [*POP.2020.Residence.Rule@census.gov*].

SUPPLEMENTARY INFORMATION:

A. Background

The U.S. Census Bureau is committed to counting every person in the 2020 Census once, only once, and in the right place. The fundamental reason that the decennial census is conducted is to fulfill the Constitutional requirement (Article I, Section 2) to apportion the seats in the U.S. House of Representatives among the states.[1] For a fair and equitable apportionment, it is crucial that the Census Bureau counts everyone in the right place during the decennial census.

The residence criteria are used to determine where people are counted during each decennial census. Specific residence situations are included with the criteria to illustrate how the criteria are applied.

1. The Concept of Usual Residence

The Census Bureau's enumeration procedures are guided by the constitutional and statutory mandates to count all residents of the several states. [U.S. Const. Art. 1, Section 2, cl.3, Title 13, United States Code, Section 141.] The state in which a person resides and the specific location within that state is determined in accordance with the concept of ''usual residence,'' which is defined by the Census Bureau as the place where a person lives and sleeps most of the time. This is not always the same as a person's legal residence, voting residence, or where they prefer to be counted. This concept of ''usual residence'' is grounded in the law providing for the first census, the Act of March 1, 1790, expressly specifying that persons be enumerated at their ''usual place of abode.''

Determining usual residence is straightforward for most people. However, given our nation's wide diversity in types of living arrangements, the concept of usual residence has a variety of applications. Some examples of these living arrangements include people experiencing homelessness, people with a seasonal/second residence, people in group facilities,[2] people in the process of moving, people in hospitals, children in shared custody arrangements, college students, live-in employees, military personnel, and people who live in workers' dormitories.

2. Reviewing the 2020 Census Residence Criteria and Residence Situations

Every decade, the Census Bureau undertakes a review of the Residence Criteria and Residence Situations to ensure that the concept of usual residence is interpreted and applied, consistent with the intent of the Census Act of 1790, which was authored by a Congress that included many of the framers of the U.S. Constitution and directed that people were to be counted at their usual residence. This review also serves as an opportunity to identify new or changing living situations resulting from societal change, and to address those situations in the guidance in a way that is consistent with the concept of usual residence.

This decade, as part of the review, the Census Bureau requested public comment on the ''2010 Census Residence Rule and Residence Situations'' through the **Federal Register** (80 FR 28950) on May 20, 2015, to allow the public to recommend any changes they would like to be considered for the 2020 Census. The Census Bureau received 252 comment submission letters or emails that contained 262 total comments. (Some comment submissions included comments or suggestions on more than one residence situation.)

On June 30, 2016, the Census Bureau published the ''Proposed 2020 Census Residence Criteria and Residence Situations'' in the **Federal Register** (81 FR 42577).[3] In that publication, the Census Bureau included a summary of comments on the May 2015 **Federal Register** document, as well as the Bureau's responses to those comments. During the 60-day comment period that ended on September 1, 2016, the Census Bureau received 77,958 comment submissions[4] that contained 77,995 total comments in response to the proposed residence criteria and situations. A summary of these comments and the Census Bureau's responses are included in section B of this document.

Section C of this document provides the Final 2020 Census Residence Criteria and Residence Situations.[5]

B. Summary of Comments Received in Response to the ''Proposed 2020 Census Residence Criteria and Residence Situations''

On June 30, 2016, the Census Bureau published a document in the **Federal Register** asking for public comment on the ''Proposed 2020 Census Residence Criteria and Residence Situations.'' Of the 77,995 comments received, 77,887 pertained to prisoners,[6] and 44 pertained to overseas military personnel. There were four comments on health care facilities. There were three comments on each of the following residence situations: Foreign citizens in the United States, juvenile facilities, and people in shelters and/or experiencing homelessness. There were two comments on each of the following residence situations: Boarding school students, college students, group homes and residential treatment centers for adults, transitory locations, visitors on Census Day, people who live or stay in more than one place, merchant marine personnel, and religious group quarters. There was one comment on each of the rest of the residence situations [people away from their usual residence on Census Day (*e.g.,* on vacation or business trip); people living outside the United States; people moving into or out of a residence around Census Day; people who are born or who die around

[1] Apportionment is based on the resident population, plus a count of overseas federal employees, for each of the 50 states. Redistricting data include the resident population of the 50 states, District of Columbia, and Puerto Rico.

[2] In this document, ''group facilities'' (referred to also as ''group quarters'' (GQ)) are defined as places where people live or stay in group living arrangements, which are owned or managed by an entity or organization providing housing and/or services for the residents.

[3] The Proposed 2020 Census Residence Criteria and Residence Situations are the same as the Final 2020 Census Residence Criteria and Residence Situations that are provided in Section C.

[4] Of the 77,958 comment submissions, 2,958 contained unique content and 75,000 were duplicates.

[5] The Census Bureau used the term ''Residence Rule and Residence Situations'' when referring to the 2010 version of this documentation and in portions of previous publications in the **Federal Register** in 2015 and 2016 regarding this topic. However, in this document, and in the foreseeable future, the Census Bureau will use the term ''Residence Criteria and Residence Situations.''

[6] The majority of comments received on this topic used the terms 'prisoner,' 'incarcerated,' or 'inmate.' Although the terminology is not exactly what we use in the residence criteria documentation, we believe the context of the comments suggests the comments apply to people in Federal and State Prisons, Local Jails and Other Municipal Confinement Facilities, and possibly Federal Detention Centers and Correctional Facilities Intended for Juveniles. References in this document to ''prisons,'' or ''prisoners,'' should be interpreted as referring to all of these types of facilities.

Census Day; relatives and nonrelatives; residential schools for people with disabilities; housing for older adults; U.S. military personnel; and workers' residential facilities]. The Census Bureau also received one comment on the concept of usual residence, seven general comments on the overall residence criteria, and 18 comments on other issues not directly related to the residence criteria or any specific residence situation.

1. Comments on Prisoners

Of the 77,887 comments pertaining to prisoners, 77,863 suggested that prisoners should be counted at their home or pre-incarceration address. The rationales included in these comments were as follows.

- Almost all commenters either directly suggested, or alluded to the view, that counting prisoners at the prison inflates the political power of the area where the prison is located, and deflates the political power in the prisoners' home communities. These commenters stated that this distorts the redistricting process by allowing officials to count prisoners as ''residents'' of the districts where they are imprisoned, even though the prisoners are not allowed to vote during the time that they are confined in that district.
  - Similarly, many commenters suggested that counting prisoners away from their home address goes against the principle of equal representation. Some commenters more specifically suggested that the practice potentially violates the Voting Rights Act and/or the U.S. constitutional commitment to one person, one vote. A couple of commenters stated that the practice differs from certain international guidelines.
  - A few commenters stated that counting prisoners at the correctional facilities can also negatively impact the communities in which the prisons are located by distorting and/or complicating the redistricting process at the local level (*e.g.,* county commissions, city councils, and school boards).
  - Some commenters stated that the current residence criteria for prisoners are inconsistent with certain states' laws regarding residency for elections (*i.e.,* some state laws specifically say that a correctional facility is not a residence).
  - Some commenters stated that some states and many local governments already adjust their population data to remove prisoners when drawing their districts. However, these commenters also suggested that this ''piecemeal'' approach at the local level is inefficient and cannot fully resolve the issues associated with where prisoners are counted.
- Most commenters suggested that counting prisoners at the prison inaccurately represents the population counts and demographic characteristics of prisoners' home communities, as well as the communities where the prisons are located. These commenters stated that prisoners typically come from urban, underserved communities whose populations are disproportionately African-American and Latino, while prisons are more likely to be located in largely White (non-Hispanic) rural communities, far from the actual homes of the prisoners. Therefore, most commenters also suggested that counting prisoners at the prisons disproportionally harms communities with high proportions of minorities, by preventing their home communities from receiving their fair share of representation and funding.
- Many commenters stated that the incarcerated population has increased significantly in recent decades. Some commenters also stated that, throughout the long history of the decennial census, the Census Bureau has previously evolved and reevaluated its residence criteria in response to other historical changes in demographics and normative living situations (*e.g.,* the 1950 change to how college students were counted). Therefore, they suggested that the changes in the prisoner population and patterns of prison locations during recent decades warrant a similar evolution of the residence criteria.
- Some commenters suggested that the Census Bureau should change its interpretation of the concept of ''usual residence'' (*i.e.,* as the place where a person lives and sleeps most of the time), as it relates to incarcerated people. To support this suggestion, commenters used various rationales.
  - Some commenters suggested that prisoners do not have enduring social ties or allegiance to the community where they are incarcerated. To explain this, some commenters more specifically stated that prisoners cannot interact with the community where they are incarcerated, are there involuntarily, and generally do not plan to remain in that community upon their release. A few commenters also stated that the governmental representatives of the community where the prison is located do not serve the prisoners, or they stated that prisoners are not constituents of the community where the prison is located. These commenters further stated that prisoners rely, instead, on the representative services of the legislators in their pre-incarceration communities.
  - Some commenters suggested that the correctional facility where a prisoner is located on Census Day is not where a prisoner spends most of their time.
    - Some supported this suggestion by stating that counting incarcerated people at the facility in which they are housed on Census Day ignores the transient and temporary nature of incarceration. These commenters stated that incarcerated people are typically transferred multiple times between various correctional facilities during the time between when they are arrested and when they are released.
    - Some supported this suggestion by focusing on local jails. They stated that, while the length of incarceration for prison inmates is typically more than one year, about a third of all inmates (in prisons and jails) are jail inmates, and the typical length of incarceration for jail inmates is much shorter than one year (*i.e.,* a few days to a few weeks). A few also stated that the majority of jail inmates have not been convicted of a crime, or stated that they are awaiting trial and presumed innocent until proven guilty.
    - A few supported this suggestion by stating that, if your measuring stick is the 10-year period for which the decennial census counts affect representation, funding, and policies, most prisoners are incarcerated for less than 10 years.
  - A few commenters suggested that multiple factors must be considered together when determining the correct place to count certain types of people, such as prisoners, who do not easily align with the standard definition of usual residence. Therefore, they stated that a one-size-fits-all approach of focusing solely on where people live and sleep most of the time is not appropriate for determining where to count prisoners.
  - A few commenters suggested that only prisoners who are serving long-term sentences, such as longer than six months or a year, should be counted at the facility, and that prisoners serving shorter terms should be counted at their usual residence outside of the facility.
- Some commenters suggested that the treatment of prisoners is inconsistent with the treatment of other residence situations in which people are temporarily living or staying away from their permanent address (*e.g.,* travelers and snowbirds). A few stated that the proposed residence criteria make it appear as if the Census Bureau plans to count boarding school students, deployed military personnel, truck drivers, members of Congress, and/or juveniles in residential treatment

facilities at their home address, even if they do not spend most of their time there.

- Some commenters suggested that the number/proportion of comments submitted on this issue indicates that there is an overwhelming consensus urging a change to how prisoners are counted in the census.
- A few commenters suggested that the Census Bureau has acknowledged the need to correct its own data by proposing to help states with post-census population adjustments.
  - Some of these commenters suggested that ''this ad hoc approach is neither efficient nor universally implementable.'' Some also stated that many states have laws that would prevent them from using such alternative data to adjust their Census counts for redistricting, and that many states may not have the resources to gather the necessary data to provide to the Census Bureau. Some also expressed concerns about the states' inability to provide data on federal prisoners and prisoners who are incarcerated in another state.
  - Therefore, some of these commenters suggested that the only way to implement a consistent solution for the entire United States is for the Census Bureau to change the way it counts prisoners. A few also suggested that the Census Bureau would be best able to accomplish this change if all correctional facilities (local, state, and federal) and/or all state and federal corrections departments were required to collect and maintain accurate records on each prisoner's home/pre-incarceration address.

Four comments were in support of counting prisoners at the correctional facility. All of these commenters suggested that the correctional facility is the prisoner's usual residence, or where they live and sleep most of the time (*i.e.,* prisoners are usually in prison, or away from their pre-incarceration address, for relatively long periods of time, such as one year or more). One commenter further stated that, because people are usually sent to prison for more than one year, they are not considered to be only ''temporary residents'' of the prison under many government regulations (other than the Census Bureau's). One commenter suggested that it makes sense to count prisoners at the facility because the communities in which the facilities are located are responsible for providing emergency response and certain law enforcement services to those facilities, as well as providing road maintenance and hospitality services (*e.g.,* hotels and restaurants) for the family and friends of the prisoners who travel to the facility for visitation.

One commenter suggested that counting prisoners at their ''home address'' would create unreasonable burden on the census process because of the considerable time and effort that would be necessary, both on the part of the facility administrators who would need to research and maintain the address records, and on the census enumerators who would need to collect and ensure the accuracy of the addresses. One commenter stated that any approach that would count prisoners somewhere other than the prison would likely result in a national undercount due to the difficulty in tracking inmates in transit. One commenter stated that it is not the Census Bureau's responsibility to facilitate states' redistricting activities beyond their currently proposed activities (*i.e.,* providing the redistricting data file, identifying the group quarters counts at the block level, and the proposed option to geocode prisoner addresses if they are provided by the state to the Census Bureau).

Twenty comments were neutral regarding where to count prisoners, in that they did not state whether they thought that prisoners should be counted at the facility or at some other address. Many of these commenters stated the importance of equal representation for all. Some stated that prisoners should have the right to vote. A few further clarified that prisoners should have the right to vote if they are going to be counted as residents (of any place) for redistricting purposes, or vice versa (*i.e.,* if prisoners do not have the right to vote, then they should not be counted). One specifically stated that incarcerated people should not be counted at all (either at the facility or elsewhere) because they committed a crime and are not legally eligible to vote. A few commenters stated concerns regarding the fairness or effectiveness of the criminal justice system.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for correctional facilities (Sections C.13.e, C.15, and C.17.a). The practice of counting prisoners at the correctional facility is consistent with the concept of usual residence, as established by the Census Act of 1790. As noted in section A.1 of this document, ''usual residence'' is defined as the place where a person lives and sleeps most of the time, which is not always the same as their legal residence, voting residence, or where they prefer to be counted. Therefore, counting prisoners anywhere other than the facility would be less consistent with the concept of usual residence, since the majority of people in prisons live and sleep most of the time at the prison.

States are responsible for legislative redistricting. The Census Bureau works closely with the states and recognizes that some states have decided, or may decide in the future, to 'move' their prisoner population back to the prisoners' pre-incarceration addresses for redistricting and other purposes. Therefore, following the 2020 Census, the Census Bureau plans to offer a product that states can request, in order to assist them in their goals of reallocating their own prisoner population counts. Any state that requests this product will be required to submit a data file (indicating where each prisoner was incarcerated on Census Day, as well as their pre-incarceration address) in a specified format. The Census Bureau will review the submitted file and, if it includes the necessary data, provide a product that contains supplemental information the state can use to construct alternative within-state tabulations for its own purposes. However, the Census Bureau will not use the state-provided data in this product to make any changes to the official decennial census counts.

The Census Bureau also plans to provide group quarters data after the 2020 Census sooner than it was provided after the 2010 Census. For the 2010 Census, the Census Bureau released the *Advance Group Quarters Summary File* showing the seven major types of group quarters, including correctional facilities for adults and juvenile facilities. This early [7] release of data on the group quarters population was beneficial to many data users, including those in the redistricting community who must consider whether to include or exclude certain populations when redrawing boundaries as a result of state legislation. The Census Bureau is planning to incorporate similar group quarters information in the standard *Redistricting Data (Public Law 94–171) Summary File* for 2020.

2. Comments on the Military Overseas

Of the 44 comments received pertaining to the military overseas, 40 supported the Census Bureau proposal

[7] The *Advance Group Quarters Summary File* was released on April 20, 2011, which was earlier than when that GQ data was originally planned to be released in the *Summary File 1* that was released on June 16–August 25, 2011. The earlier release made it easier to use these GQ data in conjunction with the *Redistricting Data (Public Law 94–171) Summary File,* which was released on February 3–March 24, 2011.

to treat military personnel who are temporarily *deployed* overseas on a short-term basis differently than military personnel who are *stationed* overseas on a more long-term basis. More specifically, most of these commenters suggested that military personnel who are deployed overseas should be counted at their usual residence in the United States where they were stationed at the time they were deployed, and included in the local community-level resident population counts.

Many commenters stated that counting deployed military personnel at their usual residence (where they are stationed) in the United States would more accurately reflect the social and economic impact that these personnel members have on the communities where they usually work, recreate, and reside. Many commenters similarly stated that deployed personnel should be counted at their usual residence in the United States in order to ensure that the communities surrounding military bases are able to obtain the necessary resources and funding to support the soldiers who serve our country and their families, as well as accurate data to inform community planning. These commenters stated that the aforementioned planning, funding, and other resources would support community services such as police and fire departments, schools, roads, parks, utilities, and other infrastructure and amenities.

Some commenters stated that deployments from specific military bases typically happen in surges to support specific events, such as combat missions or natural disasters. Therefore, these commenters suggested that, if an event like this happens around the time of the census enumeration, then the population of the community surrounding that military base would be grossly undercounted if the deployed personnel were not counted there. One commenter suggested that counting deployed personnel at their usual residence would produce more consistent results than counting them at their home of record because the Department of Defense records on military personnel members' home of record [8] were not well maintained prior to the 2010 Census.

Some commenters suggested that the military member's permanent duty station from which they were deployed is their usual residence (*i.e.,* where they live and sleep most of the time), and some commenters stated that counting deployed personnel at their usual residence in the United States would be consistent with how the Census Bureau counts other people who are temporarily away for work purposes. A few commenters stated that deployments are typically short in duration, and one commenter stated that the Army plans to further shorten the length of deployments in the future. A few commenters stated that deployed personnel must return to their permanent duty station in the United States after the deployment ends, and a few commenters stated that many deployed personnel have families that live with them at their permanent duty station and maintain their residence while the military member is deployed.

Some commenters stated that many of the family members of deployed military were confused during the 2010 Census about whether they should count themselves at their usual residence because they were instructed that their deployed family member would be counted through administrative records, and they assumed the same would be true for them as well. One of these commenters stated that proposed residence guidance for how deployed personnel would be counted in the 2020 Census should reduce some of this confusion. However, all of these commenters encouraged the Census Bureau to conduct a strong communication and outreach program to ensure that all family members of deployed personnel are made aware of the fact that they still need to complete the census questionnaire for themselves.

One commenter expressed concern about footnote 5 in the proposed residence criteria documentation, which said: ''The ability to successfully integrate the DOD data on deployed personnel into the resident population counts must be evaluated and confirmed prior to the 2020 Census.'' The commenter was worried that the proposed change for counting deployed military might not be implemented if the research and evaluations are not completed before final decisions must be made, and they suggested that such research is not necessary because the Census Bureau already uses data from the Defense Manpower Data Center when producing annual population estimates at the national, state, and county levels. This commenter also recommended that if the proposed change for counting deployed military is implemented for the 2020 Census, then the Census Bureau should also ensure that the methodology used to produce the annual population estimates is revised accordingly.

One commenter expressed support for the proposal to include military and civilian employees of the U.S. government who are deployed or stationed/assigned overseas and are not U.S. citizens (but must be legal U.S. residents to meet the requirements for federal employment) in the Federally Affiliated Overseas Count, because these people have met the requirements to qualify for federal employment and have pledged to serve our country. They also stated that this proposal would be consistent with the fact that citizenship status is not a requirement for determining a person's residence.

Three comments opposed the proposal to count deployed military at their usual residence in the United States from which they were deployed. One commenter suggested that all overseas military personnel should be counted in the same way, and that there is not a good reason to treat deployed personnel as a separate category from personnel who are stationed overseas. One commenter suggested that the Census Bureau should continue to count all overseas military personnel, including those who are deployed, in the state where they lived when they enlisted (*i.e.,* their home of record) because military personnel are typically reassigned to a different permanent duty station every few years throughout their career, and their home of record is where they have the strongest ties. One commenter suggested that the Census Bureau should not implement the proposed change to how deployed military are counted because that change would weaken the argument for continuing to count prisoners at the correctional facility where they are incarcerated on Census Day. This commenter also recommended that the Census Bureau should make a stronger case for the distinction between these two large populations (*i.e.,* deployed military personnel versus prisoners).

One comment was neutral regarding where to count overseas military personnel, in that they did not state where they thought deployed personnel should be counted. They simply stated that it appeared that not all of the locally stationed military personnel and their dependents were being counted, and asked for more information on whether this was true and/or how to ensure they were counted in the future.

Census Bureau Response: For the 2020 Census, the Census Bureau will

[8] Home of record is generally the permanent home of the person at the time of entry or re-enlistment into the Armed Forces, as included on personnel files. For the 2010 Census, if home of record information was not available for a person, the Department of Defense used the person's ''legal residence'' (the residence a member declares for state income tax withholding purposes), or thirdly, ''last duty station,'' to assign a home state.

retain the proposed residence situation guidance for overseas military personnel (Sections C.4.a–b and C.13.f–g). This guidance makes a distinction between personnel who are *deployed* overseas and those who are *stationed* or *assigned* overseas. Deployments are typically short in duration, and the deployed personnel will be returning to their usual residence where they are stationed or assigned in the United States after their temporary deployment ends. Personnel stationed or assigned overseas generally remain overseas for longer periods of time and often do not return to the previous stateside location from which they left. Therefore, counting deployed personnel at their usual residence in the United States follows the standard interpretation of the residence criteria to count people at their usual residence if they are temporarily away for work purposes.

The Census Bureau will use administrative data from the Department of Defense to count deployed personnel at their usual residence in the United States for apportionment purposes and for inclusion in the resident population counts. The Census Bureau will count military and civilian employees of the U.S. government who are stationed or assigned outside the United States, and their dependents living with them, in their home state, for apportionment purposes only, using administrative data provided by the Department of Defense and the other federal agencies that employ them.

The Census Bureau has been communicating with stakeholders from various military communities and plans to work closely with military stakeholders to plan and carry out the enumeration of military personnel. As the planning process moves forward, there will be continued testing of our process for integrating DOD data on deployed personnel into the resident population counts.

3. Comments on Health Care Facilities

Four comments were related to health care facilities. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people in health care facilities. One commenter suggested that the Census Bureau add residence guidance specifically regarding memory care centers as a separate category from nursing facilities because the nature of Alzheimer's disease and Dementia necessitates that these patients be enumerated through administrative records in order to ensure the accuracy of the data. One commenter suggested that people in psychiatric facilities should be counted at the residence where they were living before they entered the facility because they will most likely return to their prior community, which is where they would normally vote. This commenter also stated that these people should be counted in their prior communities in order to ensure that those communities receive the proper allocation of representatives and resources.

One commenter similarly suggested that people living in psychiatric hospitals on Census Day should be counted at the residence where they sleep most of the time, and only counted at the facility if they do not have a usual home elsewhere. They stated that the Census Bureau misunderstands the functioning of state and private psychiatric hospitals, which today provide primarily acute and short term treatment (*e.g.,* less than two weeks, in most cases). They also stated that most patients in these facilities are likely to have a permanent residence elsewhere. The same commenter also stated that the Census Bureau's proposal for how to count people in nursing/skilled-nursing facilities does not best capture the experience of people with disabilities who are in the process of transitioning from group housing to more independent housing. Therefore, the commenter suggested that the Census Bureau should alter the proposed guidance in order to allow people in nursing/skilled-nursing facilities to be counted at a residence to which they are actively preparing to transition.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for health care facilities (Section C.11). Separate residence guidance was not added for memory care centers because these types of facilities would be considered subcategories of assisted living facilities and nursing facilities/skilled nursing facilities (Section C.11), and the guidance provided for these types of facilities is sufficient. Patients in mental (psychiatric) hospitals and psychiatric units in other hospitals (where the primary function is for long-term non-acute care) will be counted at the facility because the facilities or units within the facilities are primarily serving long-term non-acute patients who live and sleep at the facility most of time. Because people must be counted at their current usual residence, rather than a future usual residence, the residence guidance for patients in nursing/skilled-nursing facilities will not be revised to allow some people to be counted at a residence to which they are actively preparing to transition. Comments on health care facilities not addressed in this section were considered out of scope for this document.

4. Comments on Foreign Citizens in the United States

Three comments were related to foreign citizens in the United States. One commenter simply stated that they agree with the Census Bureau's proposal regarding how foreign citizens are counted. One commenter suggested that the Census Bureau should add wording to clarify whether foreign ''snowbirds'' (*i.e.,* foreign citizens who stay in a seasonal residence in the United States for multiple months) are considered to be ''living'' in the United States or only ''visiting'' the United States. In order to more accurately reflect the impact of foreign snowbirds on local jurisdictions in the United States, this commenter suggested defining those who are ''living'' in the United States as those who are ''living or staying in the United States for an extended period of time exceeding ____months.'' One commenter expressed concern about the impact of including undocumented people in the population counts for redistricting because these people cannot vote, and they stated that this practice encourages gerrymandering. This commenter suggested collecting data to identify the citizen voting age population (CVAP), so that the data could be used to prevent gerrymandering in gateway communities during the redistricting process.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for foreign citizens in the United States (Section C.3). Foreign citizens are considered to be ''living'' in the United States if, at the time of the census, they are living and sleeping most of the time at a residence in the United States. Section C.3 provides sufficient guidance for foreign citizens either living in or visiting the United States. Section C.5 provides additional guidance regarding ''snowbirds.'' Comments on foreign citizens in the United States not addressed in this section were considered out of scope for this document.

5. Comments on Juvenile Facilities

Three comments were related to juvenile facilities. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count juveniles in non-correctional residential treatment centers. One commenter stated that

juveniles in all three types of juvenile facilities (*i.e.,* correctional facilities, non-correctional group homes, and non-correctional residential treatment centers) should be counted at their usual residence. One commenter similarly stated that people in juvenile facilities should be counted at their usual residence outside the facility, but the context of the comment showed that this commenter was referring mostly to correctional facilities for juveniles (rather than non-correctional group homes and non-correctional residential treatment centers).

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for juvenile facilities (Section C.17). People in correctional facilities for juveniles and non-correctional group homes for juveniles will be counted at the facility because the majority of people in these types of facilities live and sleep there most of the time. People in non-correctional residential treatment centers for juveniles will be counted at the residence where they live and sleep most of the time (or at the facility if they do not have a usual home elsewhere) because these people typically stay at the facility temporarily and often have a usual home elsewhere to return to after treatment is completed.

6. Comments on People in Shelters and People Experiencing Homelessness

Three comments were related to people in shelters and people experiencing homelessness. One expressed agreement with the Census Bureau's proposal regarding how to count people in all of the subcategories of this residence situation except for the subcategory of people in domestic violence shelters. This commenter suggested that people in domestic violence shelters should be allowed to be counted at their last residence address prior to the shelter, due to the temporary nature of their stay and the confidentiality of that shelter's location. One commenter suggested that the Census Bureau add residence guidance specifically regarding ''temporarily moved persons due to emergencies'' (*e.g.,* displaced from their home by a hurricane or earthquake). This commenter stated that these people should be counted ''in their normal prior residential locations'' (if they state the intention to return to that prior location after their home is repaired/rebuilt) so that accurate decisions can be made regarding funding for rebuilding and infrastructure restoration in those locations. One commenter requested that the Census Bureau publish national and/or state level population counts for the subcategory of people in emergency and transitional shelters with sleeping facilities for people experiencing homelessness. This commenter stated that these data are important to both housing advocates trying to assess the housing needs of people with disabilities, and to legal advocates working to enforce the community integration mandates of the Americans with Disabilities Act.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people in shelters and people experiencing homelessness (Section C.21).

The proposed residence guidance already allows people who are temporarily displaced by natural disasters to be counted at their usual residence to which they intend to return. People in temporary group living quarters established for victims of natural disasters will be counted where they live and sleep most of the time (or at the facility if they do not report a usual home elsewhere). In addition, people who are temporarily displaced or experiencing homelessness, and are staying in a residence for a short or indefinite period of time, will be counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they will be counted where they are staying on Census Day.

7. Comments on College Students and Boarding School Students

Two comments were related to boarding school students, and two comments were related to college students. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count boarding school students and college students. One commenter suggested that they agree with counting college students at their college residence because that would better ensure that all college students are counted in the census. One commenter suggested that boarding school students should be counted at the school because that is where they live and sleep most of the time, and they participate in (and consume the resources of) the community where the school is located. This commenter also stated that counting boarding school students at their parental home is inconsistent with the fact that college students are counted at their college residence, considering that college students are often just as dependent on their parents as boarding school students.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for college students (Section C.10.a–e) and boarding school students (Section C.9.a). The Census Bureau has historically counted boarding school students at their parental home, and will continue doing so because of the students' age and dependency on their parents, and the likelihood that they will return to their parents' residence when they are not attending their boarding school (*e.g.,* weekends, summer/winter breaks, and when they stop attending the school).

8. Comments on Non-Correctional Adult Group Homes and Residential Treatment Centers

Two comments were related to adult group homes and residential treatment centers. One commenter suggested that all people in adult group homes and adult residential treatment centers should be counted at their usual residence other than the facility, because counting them at the facility is not consistent with their state's definition of residence. One commenter stated that the Census Bureau's proposal for how to count people in adult group homes does not best capture the experience of people with disabilities who are in the process of transitioning from group housing to more independent housing. Therefore, the commenter suggested that the Census Bureau should alter the proposed guidance in order to allow people in adult group homes to be counted at a residence to which they are actively preparing to transition. The same commenter also requested that the Census Bureau publish national and/or state level population counts for the subcategories of people in adult group homes and adult residential treatment centers. This commenter stated that these data are important to both housing advocates trying to assess the housing needs of people with disabilities, and to legal advocates working to enforce the community integration mandates of the Americans with Disabilities Act.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people in non-correctional adult group homes and residential treatment centers (Section C.16). People in non-correctional group homes for adults will be counted at the facility because the majority of people in these types of facilities live and sleep there most of the time. People in non-correctional residential treatment centers for adults will be counted at the residence where they live and sleep

most of the time (or at the facility if they do not have a usual home elsewhere) because these people typically stay at the facility temporarily and often have a usual home elsewhere to return to after treatment is completed.

The residence guidance for people in adult group homes will not be revised to allow some people to be counted at a residence to which they are actively preparing to transition because people must be counted at their current usual residence, rather than a future usual residence. Comments on non-correctional adult group homes and residential treatment centers not addressed in this section were considered out of scope for this document.

9. Comments on Transitory Locations

Two comments were related to transitory locations. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people in transitory locations. One commenter stated that the proposed residence guidance for transitory locations is acceptable because it is consistent with the concept of usual residence. However, they were concerned that the procedures used in the 2010 Census may have caused certain types of people to not be counted in the census because these people typically move seasonally from one transitory location (*e.g.,* RV park) to another throughout the year, but the location where they are staying on Census Day may not be the location where they spend most of the year. This commenter stated that, during the 2010 Census, if the transitory location where a person was staying on Census Day was not where they stayed most of the time, then they were not enumerated at that location because the assumption was that they would be enumerated at their usual residence. Therefore, the commenter was concerned that people who stayed in one RV park for a few months around Census Day were not counted at that RV park if they indicated that they usually lived elsewhere (*e.g.,* another RV park), and they would also not have been counted at that other RV park when they are there later that year (after the census enumeration period ends). The commenter suggested that we add procedures to account for people who spend most of their time in a combination of multiple transitory locations.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people in transitory locations (Section C.18). Sufficient guidance for people in transitory locations, including those living in recreational vehicles, is provided in Section C.18. Comments on transitory locations not addressed in this section were considered out of scope for this document.

10. Comments on Visitors on Census Day

Two comments were related to visitors on Census Day. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count visitors on Census Day. One commenter asked whether the Census Bureau would count all vacationers in a specific state as residents of that state.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for visitors on Census Day (Section C.2). People who are temporarily visiting a location on Census Day will be counted where they live and sleep most of the time. If they do not have a usual residence to return to, they will be counted where they are staying on Census Day.

11. Comments on People Who Live or Stay in More Than One Place

Two comments were related to people who live or stay in more than one place. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people who live or stay in more than one place. One commenter suggested that the Census Bureau add more clarification to the residence guidance regarding where ''snowbirds'' (*i.e.,* seasonal residents) are counted.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for people who live or stay in more than one place (Section C.5). People who travel seasonally between residences (*e.g.,* snowbirds) will be counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they will be counted where they are staying on Census Day.

12. Comments on Merchant Marine Personnel

Two comments were related to merchant marine personnel, and both commenters simply stated that they agree with the Census Bureau's proposal regarding how to count merchant marine personnel.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for merchant marine personnel (Section C.14).

13. Comments on Religious Group Quarters

Two comments were related to religious group quarters. One commenter simply stated that they agree with the Census Bureau's proposal regarding how to count people in religious group quarters. One commenter expressed agreement with the proposal because most religious group quarters are long-term residences that align with the concept of usual residence.

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed residence situation guidance for religious group quarters (Section C.20).

14. Comments on Other Residence Situations

There was one letter that included a comment on every residence situation, and each of those topic-specific comments was included as appropriate among the comments regarding the corresponding residence situations discussed above. However, for each of the other residence situations not already discussed above, the commenter stated that they agreed with how the Census Bureau proposed to count people in the following residence situations.

- People away from their usual residence on Census Day (*e.g.,* on vacation or business trip) (Section C.1).
- People living outside the United States (Section C.4).
- People moving into or out of a residence around Census Day (Section C.6).
- People who are born or who die around Census Day (Section C.7).
- Relatives and nonrelatives (Section C.8).
- Residential schools for people with disabilities (Section C.9.b–c).
- Housing for older adults (Section C.12).
- Stateside military personnel (Section C.13.a–e).
- Workers' residential facilities (Section C.19).

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the proposed guidance for the residence situations listed in this section (B.14).

15. Comments on the Concept of Usual Residence or the General Residence Criteria

There was one comment on the concept of usual residence, in which the commenter expressed agreement with

the definition of ''usual residence'' as being the place where a person lives and sleeps most of the time.

There were seven comments on the general residence criteria. One commenter simply supported the entire residence criteria and residence situations documentation. Two commenters stated that they specifically agree with the three main principles of the residence criteria. One commenter disagreed with ''this method of tallying the U.S. population,'' but did not refer to any specific residence situation. One commenter stated that every resident should be counted in the census. One commenter stated that every citizen should be counted in the census. One commenter suggested that the Census Bureau count people who are away from their home at the time of the census using a code to indicate the reason why they are away (*e.g.,* travel, work, incarceration, etc.).

Census Bureau Response: For the 2020 Census, the Census Bureau will retain the three main principles of the residence criteria (see introduction portion of section C). The goal of the decennial census is to count all people who are living in the United States on Census Day at their usual residence. Comments on the concept of usual residence or general residence criteria not addressed in this section were considered out of scope for this document.

16. Other Comments

There were 18 comments that did not directly address the residence criteria or any particular residence situation.

Census Bureau Response: Comments that did not directly address the residence criteria or any particular residence situation are out of scope for this document.

C. The Final 2020 Census Residence Criteria and Residence Situations

The Residence Criteria are used to determine where people are counted during the 2020 Census. The Criteria say:

- Count people at their usual residence, which is the place where they live and sleep most of the time.
- People in certain types of group facilities on Census Day are counted at the group facility.
- People who do not have a usual residence, or who cannot determine a usual residence, are counted where they are on Census Day.

The following sections describe how the Residence Criteria apply to certain living situations for which people commonly request clarification.

1. People Away From Their Usual Residence on Census Day

People away from their usual residence on Census Day, such as on a vacation or a business trip, visiting, traveling outside the United States, or working elsewhere without a usual residence there (for example, as a truck driver or traveling salesperson)—Counted at the residence where they live and sleep most of the time.

2. Visitors on Census Day

Visitors on Census Day—Counted at the residence where they live and sleep most of the time. If they do not have a usual residence to return to, they are counted where they are staying on Census Day.

3. Foreign Citizens in the United States

(a) *Citizens of foreign countries living in the United States*—Counted at the U.S. residence where they live and sleep most of the time.

(b) *Citizens of foreign countries living in the United States who are members of the diplomatic community*—Counted at the embassy, consulate, United Nations' facility, or other residences where diplomats live.

(c) *Citizens of foreign countries visiting the United States, such as on a vacation or business trip*—Not counted in the census.

4. People Living Outside the United States

(a) People deployed outside the United States [9] on Census Day (while stationed or assigned in the United States) who are military or civilian employees of the U.S. government—Counted at the U.S. residence where they live and sleep most of the time, using administrative data provided by federal agencies.[10]

(b) *People stationed or assigned outside the United States on Census Day who are military or civilian employees of the U.S. government, as well as their dependents living with them outside the United States*—Counted as part of the U.S. federally affiliated overseas population, using administrative data provided by federal agencies.

(c) *People living outside the United States on Census Day who are not military or civilian employees of the U.S. government and are not dependents living with military or civilian employees of the U.S. government*—Not counted in the stateside census.

5. People Who Live or Stay in More Than One Place

(a) *People living away most of the time while working, such as people who live at a residence close to where they work and return regularly to another residence*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(b) *People who live or stay at two or more residences (during the week, month, or year), such as people who travel seasonally between residences (for example, snowbirds)*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(c) *Children in shared custody or other arrangements who live at more than one residence*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

6. People Moving Into or Out of a Residence Around Census Day

(a) *People who move into a new residence on or before Census Day*—Counted at the new residence where they are living on Census Day.

(b) *People who move out of a residence on Census Day and do not move into a new residence until after Census Day*—Counted at the old residence where they were living on Census Day.

(c) *People who move out of a residence before Census Day and do not move into a new residence until after Census Day*—Counted at the residence where they are staying on Census Day.

[9] In this document, ''Outside the United States'' and ''foreign port'' are defined as being anywhere outside the geographical area of the 50 United States and the District of Columbia. Therefore, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, the Pacific Island Areas (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands), and all foreign countries are considered to be ''outside the United States.'' Conversely, ''stateside,'' ''U.S. homeport,'' and ''U.S. port'' are defined as being anywhere in the 50 United States and the District of Columbia.

[10] Military and civilian employees of the U.S. government who are deployed or stationed/assigned outside the United States (and their dependents living with them outside the United States) are counted using administrative data provided by the Department of Defense and the other federal agencies that employ them. If they are deployed outside the United States (while stationed/assigned in the United States), the administrative data are used to count them at their usual residence in the United States. Otherwise, if they are stationed/assigned outside the United States, the administrative data are used to count them (and their dependents living with them outside the United States) in their home state for apportionment purposes only.

7. People Who Are Born or Who Die Around Census Day

(a) *Babies born on or before Census Day*—Counted at the residence where they will live and sleep most of the time, even if they are still in a hospital on Census Day.

(b) *Babies born after Census Day*—Not counted in the census.

(c) *People who die before Census Day*—Not counted in the census.

(d) *People who die on or after Census Day*—Counted at the residence where they were living and sleeping most of the time as of Census Day.

8. Relatives and Nonrelatives

(a) *Babies and children of all ages, including biological, step, and adopted children, as well as grandchildren*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day. (Only count babies born on or before Census Day.)

(b) *Foster children*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(c) *Spouses and close relatives, such as parents or siblings*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(d) *Extended relatives, such as grandparents, nieces/nephews, aunts/uncles, cousins, or in-laws*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(e) *Unmarried partners*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(f) *Housemates or roommates*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(g) *Roomers or boarders*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(h) *Live-in employees, such as caregivers or domestic workers*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

(i) *Other nonrelatives, such as friends*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

9. People in Residential School-Related Facilities

(a) *Boarding school students living away from their parents' or guardians' home while attending boarding school below the college level, including Bureau of Indian Affairs boarding schools*—Counted at their parents' or guardians' home.

(b) *Students in residential schools for people with disabilities on Census Day*—Counted at the school.

(c) *Staff members living at boarding schools or residential schools for people with disabilities on Census Day*—Counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the school.

10. College Students (and Staff Living in College Housing)

(a) *College students living at their parents' or guardians' home while attending college in the United States*—Counted at their parents' or guardians' home.

(b) *College students living away from their parents' or guardians' home while attending college in the United States (living either on-campus or off-campus)*—Counted at the on-campus or off-campus residence where they live and sleep most of the time. If they are living in college/university student housing (such as dormitories or residence halls) on Census Day, they are counted at the college/university student housing.

(c) *College students living away from their parents' or guardians' home while attending college in the United States (living either on-campus or off-campus) but staying at their parents' or guardians' home while on break or vacation*—Counted at the on-campus or off-campus residence where they live and sleep most of the time. If they are living in college/university student housing (such as dormitories or residence halls) on Census Day, they are counted at the college/university student housing.

(d) *College students who are U.S. citizens living outside the United States while attending college outside the United States*—Not counted in the stateside census.

(e) *College students who are foreign citizens living in the United States while attending college in the United States (living either on-campus or off-campus)*—Counted at the on-campus or off-campus U.S. residence where they live and sleep most of the time. If they are living in college/university student housing (such as dormitories or residence halls) on Census Day, they are counted at the college/university student housing.

(f) *Staff members living in college/university student housing (such as dormitories or residence halls) on Census Day*—Counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the college/university student housing.

11. People in Health Care Facilities

(a) *People in general or Veterans Affairs hospitals (except psychiatric units) on Census Day, including newborn babies still in the hospital on Census Day*—Counted at the residence where they live and sleep most of the time. Newborn babies are counted at the residence where they will live and sleep most of the time. If patients or staff members do not have a usual home elsewhere, they are counted at the hospital.

(b) *People in mental (psychiatric) hospitals and psychiatric units in other hospitals (where the primary function is for long-term non-acute care) on Census Day*—Patients are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(c) *People in assisted living facilities*[11] *where care is provided for individuals who need help with the activities of daily living but do not need the skilled medical care that is provided in a nursing home*—Residents and staff members are counted at the residence where they live and sleep most of the time.

(d) *People in nursing facilities/skilled-nursing facilities (which provide long-term non-acute care) on Census Day*—

[11] Nursing facilities/skilled-nursing facilities, in-patient hospice facilities, assisted living facilities, and housing intended for older adults may coexist within the same entity or organization in some cases. For example, an assisted living facility may have a skilled-nursing floor or wing that meets the nursing facility criteria, which means that specific floor or wing is counted according to the guidelines for nursing facilities/skilled-nursing facilities, while the rest of the living quarters in that facility are counted according to the guidelines for assisted living facilities.

Patients are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(e) *People staying at in-patient hospice facilities on Census Day*—Counted at the residence where they live and sleep most of the time. If patients or staff members do not have a usual home elsewhere, they are counted at the facility.

12. People in Housing for Older Adults

People in housing intended for older adults, such as active adult communities, independent living, senior apartments, or retirement communities—Residents and staff members are counted at the residence where they live and sleep most of the time.

13. U.S. Military Personnel

(a) *U.S. military personnel assigned to military barracks/dormitories in the United States on Census Day*—Counted at the military barracks/dormitories.

(b) *U.S. military personnel (and dependents living with them) living in the United States (living either on base or off base) who are not assigned to barracks/dormitories on Census Day*—Counted at the residence where they live and sleep most of the time.

(c) *U.S. military personnel assigned to U.S. military vessels with a U.S. homeport on Census Day*—Counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel's homeport.

(d) *People who are active duty patients assigned to a military treatment facility in the United States on Census Day*—Patients are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(e) *People in military disciplinary barracks and jails in the United States on Census Day*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(f) *U.S. military personnel who are deployed outside the United States (while stationed in the United States) and are living on or off a military installation outside the United States on Census Day*—Counted at the U.S. residence where they live and sleep most of the time, using administrative data provided by the Department of Defense.

(g) *U.S. military personnel who are stationed outside the United States and are living on or off a military installation outside the United States on Census Day, as well as their dependents living with them outside the United States*—Counted as part of the U.S. federally affiliated overseas population, using administrative data provided by the Department of Defense.

(h) *U.S. military personnel assigned to U.S. military vessels with a homeport outside the United States on Census Day*—Counted as part of the U.S. federally affiliated overseas population, using administrative data provided by the Department of Defense.

14. Merchant Marine Personnel on U.S. Flag Maritime/Merchant Vessels

(a) *Crews of U.S. flag maritime/merchant vessels docked in a U.S. port, sailing from one U.S. port to another U.S. port, sailing from a U.S. port to a foreign port, or sailing from a foreign port to a U.S. port on Census Day*—Counted at the onshore U.S. residence where they live and sleep most of the time. If they have no onshore U.S. residence, they are counted at their vessel. If the vessel is docked in a U.S. port, sailing from a U.S. port to a foreign port, or sailing from a foreign port to a U.S. port, crewmembers with no onshore U.S. residence are counted at the U.S. port. If the vessel is sailing from one U.S. port to another U.S. port, crewmembers with no onshore U.S. residence are counted at the port of departure.

(b) *Crews of U.S. flag maritime/merchant vessels engaged in U.S. inland waterway transportation on Census Day*—Counted at the onshore U.S. residence where they live and sleep most of the time.

(c) *Crews of U.S. flag maritime/merchant vessels docked in a foreign port or sailing from one foreign port to another foreign port on Census Day*—Not counted in the stateside census.

15. People in Correctional Facilities for Adults

(a) *People in federal and state prisons on Census Day*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(b) *People in local jails and other municipal confinement facilities on Census Day*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(c) *People in federal detention centers on Census Day, such as Metropolitan Correctional Centers, Metropolitan Detention Centers, Bureau of Indian Affairs Detention Centers, Immigration and Customs Enforcement (ICE) Service Processing Centers, and ICE contract detention facilities*—Prisoners are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(d) *People in correctional residential facilities on Census Day, such as halfway houses, restitution centers, and prerelease, work release, and study centers*—Residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

16. People in Group Homes and Residential Treatment Centers for Adults

(a) *People in group homes intended for adults (non-correctional) on Census Day*—Residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(b) *People in residential treatment centers for adults (non-correctional) on Census Day*—Counted at the residence where they live and sleep most of the time. If residents or staff members do not have a usual home elsewhere, they are counted at the facility.

17. People in Juvenile Facilities

(a) *People in correctional facilities intended for juveniles on Census Day*—Juvenile residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(b) *People in group homes for juveniles (non-correctional) on Census Day*—Juvenile residents are counted at the facility. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the facility.

(c) *People in residential treatment centers for juveniles (non-correctional) on Census Day*—Counted at the residence where they live and sleep most of the time. If juvenile residents or

staff members do not have a usual home elsewhere, they are counted at the facility.

18. People in Transitory Locations

People at transitory locations such as recreational vehicle (RV) parks, campgrounds, hotels and motels, hostels, marinas, racetracks, circuses, or carnivals—Anyone, including staff members, staying at the transitory location is counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, or they cannot determine a place where they live most of the time, they are counted at the transitory location.

19. People in Workers' Residential Facilities

People in workers' group living quarters and Job Corps Centers on Census Day—Counted at the residence where they live and sleep most of the time. If residents or staff members do not have a usual home elsewhere, they are counted at the facility.

20. People in Religious-Related Residential Facilities

People in religious group quarters, such as convents and monasteries, on Census Day—Counted at the facility.

21. People in Shelters and People Experiencing Homelessness

(a) *People in domestic violence shelters on Census Day*—People staying at the shelter (who are not staff) are counted at the shelter. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the shelter.

(b) *People who, on Census Day, are in temporary group living quarters established for victims of natural disasters*—Anyone, including staff members, staying at the facility is counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the facility.

(c) *People who, on Census Day, are in emergency and transitional shelters with sleeping facilities for people experiencing homelessness*—People staying at the shelter (who are not staff) are counted at the shelter. Staff members are counted at the residence where they live and sleep most of the time. If staff members do not have a usual home elsewhere, they are counted at the shelter.

(d) *People who, on Census Day, are at soup kitchens and regularly scheduled mobile food vans that provide food to people experiencing homelessness*—Counted at the residence where they live and sleep most of the time. If they do not have a usual home elsewhere, they are counted at the soup kitchen or mobile food van location where they are on Census Day.

(e) *People who, on Census Day, are at targeted non-sheltered outdoor locations where people experiencing homelessness stay without paying*—Counted at the outdoor location where they are on Census Day.

(f) *People who, on Census Day, are temporarily displaced or experiencing homelessness and are staying in a residence for a short or indefinite period of time*—Counted at the residence where they live and sleep most of the time. If they cannot determine a place where they live most of the time, they are counted where they are staying on Census Day.

Dated: February 1, 2018.

Ron S. Jarmin,

Associate Director for Economic Programs, Performing the Non-Exclusive Functions and Duties of the Director, Bureau of the Census.

[FR Doc. 2018–02370 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS THOMAS HUDNER (DDG 116) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship . The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective February 8, 2018 and is applicable beginning January 25, 2018.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Kyle Fralick, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE, Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the secretary of the Navy, has certified that USS THOMAS HUDNER (DDG 116) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f) (ii), pertaining to the vertical placement of task lights; Rule 23(a), the requirement to display a forward and aft masthead light underway, and Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by:

■ a. In Table Four, paragraph 15, adding, in alpha numerical order, by vessel number, an entry for USS THOMAS HUDNER (DDG 116); and

■ b . In Table Five, by adding, in alpha numerical order, by vessel number, an entry for USS THOMAS HUDNER (DDG 116).

The additions read as follows:

§ 706 .2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

15. * * *

TABLE FOUR

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
*	*	*
USS THOMAS HUDNER	DDG 115	1.81
*	*	*

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After mast-head light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS THOMAS HUDNER	DDG 116	X	X	X	14.5
*	*	*	*	*	*

Approved: January 25, 2018.

A.S. Janin,

Captain, USN, JAGC, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

[FR Doc. 2018–02554 Filed 2–7–18; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2017–0051; FRL–9974–16–Region 10]

Air Plan Approval; OR, Oakridge; $PM_{2.5}$ Moderate Plan, Finding of Attainment and Clean Data Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a finding of attainment by the attainment date and a clean data determination (CDD) for the Oakridge-Westfir (Oakridge), Oregon fine particulate matter nonattainment area (Oakridge NAA). The finding is based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing the area has monitored attainment of the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) based on 2014–2016 data available in the EPA's Air Quality System (AQS) database. This determination will not constitute a redesignation to attainment.

The EPA is also finalizing approval of the revisions to Oregon's State Implementation Plan (SIP) consisting of the updated Oakridge-Westfir $PM_{2.5}$ Attainment Plan (Oakridge Update) submitted by the Oregon Department of Environmental Quality (ODEQ) on January 20, 2017. The purpose of the Oakridge Update, developed by Lane Regional Air Protection Agency (LRAPA) in coordination with the ODEQ, is to provide an attainment demonstration of the 2006 24-hour $PM_{2.5}$ NAAQS and correct deficiencies in the 2012 Oakridge Attainment Plan.

DATES: This final rule is effective March 12, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2017–0051. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the Air Planning Unit, Office of Air and Waste, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that, if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski at (360) 753–9081, *duboiski.christi@epa.gov* or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

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I. Background Information

On October 21, 2016, the Environmental Protection Agency (EPA) finalized a partial approval and partial disapproval of the 2012 Oakridge Attainment Plan (81 FR 72714) which started a sanction clock for the imposition of offset sanctions and highway sanctions, 18 months and 24 months respectively, after the November 21, 2016 effective date, pursuant to section 179(a) of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31. In addition to sanctions, the EPA is required to promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the finding if the deficiency has not been corrected within that time period.

On January 20, 2017, Oregon Department of Environmental Quality (ODEQ) submitted the Oakridge Update to correct the deficiencies identified in the 2012 Oakridge Attainment Plan. On November 14, 2017, (82 FR 52683) the EPA proposed to approve the finding of attainment by the attainment date, the clean data determination (CDD) for the Oakridge-Westfir (Oakridge), Oregon fine particulate matter nonattainment area (Oakridge NAA), and the Oregon's State Implementation Plan (SIP) consisting of the updated Oakridge-Westfir $PM_{2.5}$ Attainment Plan (Oakridge Update), which provided an attainment demonstration of the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). An explanation of the CAA attainment planning requirements, a detailed analysis of the submittal, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here.

The EPA believes the Oakridge Update corrects the deficiencies identified in our October 21, 2016, partial approval and partial disapproval action. Therefore, we are taking final action to make an attainment finding and approve the Oakridge Update as discussed in our notice of proposed rulemaking, and all sanctions and sanction clocks related to the 2012 Oakridge Attainment Plan, partial approval and partial disapproval action will be permanently terminated on the effective date of this final approval. The public comment period for the proposed rule ended on December 14, 2017. The EPA received no comments on the proposal.

Neither the finding of attainment by the attainment date nor CDD is equivalent to the redesignation of the area to attainment. This action does not constitute a redesignation to attainment under section 107(d)(3)(E) of the CAA, because the state must have an approved maintenance plan for the area as required under section 175A of the CAA, and a determination that the area has met the other requirements for redesignation in order to be redesignated to attainment. The designation status of the area will remain nonattainment for the 2006 $PM_{2.5}$ NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment in CAA section 107(d)(3)(E).

II. Final Action

The EPA is finalizing approval of the following items:

- The determination that the Oakridge area attained the 2006 24-hour $PM_{2.5}$ NAAQS by the December 31, 2016 attainment date as demonstrated by quality-assured and quality-controlled 2014–2016 ambient air monitoring data.
- The Oakridge NAA achieved a clean data determination (CDD) in accordance with the EPA's clean data policy.
- The Oakridge Update as meeting the requirements of section 110(k) of the CAA. Specifically, the EPA has determined the Oakridge Update meets the substantive statutory and regulatory requirements for base year and projected emissions inventories for the nonattainment area, and an attainment demonstration with modeling analysis and imposition of RACM/RACT level emission controls, RFP plan, QMs, and contingency measures.[1] The EPA is also approving a comprehensive precursor demonstration for VOCs, SO_2, NO_X, and NH_3 and the 2015 MVEB of 22.2 lb/day for direct $PM_{2.5}$. The EPA believes approval of these SIP elements corrects deficiencies identified in our October 21, 2016 partial approval and partial disapproval action that initiated sanctions clocks (81 FR 72714). All sanctions and sanction clocks related to the partial disapproval of the 2012 Oakridge Attainment Plan will be permanently terminated on the effective date of the final approval of this action.
- The EPA is approving, and incorporating by reference, the following sections in the City of Oakridge Ordinance 920: Section 1 Definitions; Section 2(1) Curtailment; Section 2(2) Prohibited materials; Section 3 Solid Fuel Burning Devices Upon Sale of the Property; Section 4 Solid Fuel Burning Devices Prohibited; Section 5 Solid Fuel Burning Devices Exemptions; Section 7 Contingency Measures.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 10 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 the EPA for inclusion in the State implementation plan, have been incorporated by reference by the 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 the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[2]

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 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

[1] It is important to note, the 2016 Oakridge Update includes the complete 2012 Oakridge Attainment Plan which was previously partially approved, partially disapproved (81 FR 72714). In this action, the EPA is taking no action on the following elements of 2012 Oakridge Attainment Plan included in Appendix 3 of the 2016 Oakridge Update; the 2012 Oakridge $PM_{2.5}$ Attainment Plan and associated appendices F1, F6 and K. These elements are considered informational elements, not essential for making decisions on the 2016 Oakridge Update. On February 24, 2016, ODEQ withdrew appendices F2 and F3 from the Oakridge $PM_{2.5}$ Attainment Plan submittal and clarified that they were provided for informational purposes only.

[2] 62 FR 27968 (May 22, 1997).

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 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).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

Dated: January 25, 2018.

Chris Hladick,

Regional Administrator, Region 10.

For the reasons stated in the preamble, 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 MM—Oregon

■ 2. Section 52.1970 is amended:

■ a. In paragraph (c), ''Table 3–EPA Approved City and County Ordinances'' by adding an entry ''City of Oakridge Ordinance No. 920'' at the end of the table; and

■ b. In paragraph (e), table entitled, ''State of Oregon Air Quality Control Program'' by adding under ''Section 4'', two entries ''4.66'' and ''4.67'' in numerical order.

The additions read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

TABLE 3—EPA APPROVED CITY AND COUNTY ORDINANCES

Agency and ordinance	Title or subject	Date	EPA approval date	Explanation
*	* * *	*	*	*
City of Oakridge Ordinance No. 920.	An Ordinance Amending Section 7 of Ordinance 914 and Adopting New Standards for the Oakridge Air Pollution Control Program.	11/10/2016	2/8/2018, [Insert **Federal Register** citation].	Oakridge PM–2.5 Attainment Plan. Only with respect to Sections 1, 2(1), 2(2), 3, 4, 5 and 7.

* * * * *

(e) * * *

STATE OF OREGON AIR QUALITY CONTROL PROGRAM

SIP citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
4.66	12/06/2012	10/21/2016, 81 FR 72714	.....	4.66 2012 Oakridge-Westfir $PM_{2.5}$ Attainment Plan.

STATE OF OREGON AIR QUALITY CONTROL PROGRAM—Continued

SIP citation	Title/subject	State effective date	EPA approval date	Explanation
		4.67, 1/20/2017	2/8/2018, [Insert **Federal Register** citation].	4.67 Updated Oakridge-Westfir $PM_{2.5}$ Attainment Plan.
*	*	*	*	*

* * * * *

[FR Doc. 2018–02465 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0574; FRL–9974–12–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Removal of Clean Air Interstate Rule Trading Programs Replaced by Cross-State Air Pollution Rule Trading Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the State of West Virginia. These revisions pertain to two West Virginia regulations that established trading programs under the Clean Air Interstate Rule (CAIR). The EPA-administered trading programs under CAIR were discontinued on December 31, 2014 upon the implementation of the Cross-State Air Pollution Rule (CSAPR), which was promulgated by EPA to replace CAIR. CSAPR established federal trading programs for sources in multiple states, including West Virginia, that replace the CAIR state and federal trading programs. The submitted SIP revisions request removal of state regulations that implemented the CAIR annual nitrogen oxide (NO_X) and annual sulfur dioxide (SO_2) trading programs from the West Virginia SIP (as CSAPR has replaced CAIR). EPA is approving these SIP revisions in accordance with the requirements of the Clean Air Act (CAA). West Virginia's SIP revision submittal requesting removal of a state regulation that implemented the CAIR ozone season NO_X trading program will be addressed in a separate action.

DATES: This final rule is effective on March 12, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0574. All documents in the docket are listed on the *http://www.regulations.govwebsite.* 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: Marilyn Powers, (215) 814–2308, or by email at *powers.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 2005, EPA promulgated CAIR (70 FR 25162, May 12, 2005) to address transported emissions that significantly contributed to downwind states' nonattainment and interfered with maintenance of the 1997 ozone and fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). CAIR required 28 states, including West Virginia, to revise their SIPs to reduce emissions of NO_X and SO_2, precursors to the formation of ambient ozone and $PM_{2.5}$. Under CAIR, EPA provided model state rules for separate cap and trade programs for annual NO_X, ozone season NO_X, and annual SO_2. The annual NO_X and annual SO_2 trading programs were designed to address transported $PM_{2.5}$ pollution, while the ozone season NO_X trading program was designed to address transported ozone pollution. EPA also promulgated CAIR federal implementation plans (FIPs) with CAIR federal trading programs that would address each state's CAIR requirements in the event that a CAIR SIP for the state was not submitted or approved (71 FR 25328, April 28, 2006). Generally, both the model state rules and the federal trading program rules applied only to electric generating units (EGUs), but in the case of the model state rule and federal trading program for ozone season NO_X emissions, each state had the option to submit a CAIR SIP revision that expanded applicability to include certain non-EGUs that formerly participated in the NO_X Budget Trading Program under the NO_X SIP Call.[1] West Virginia submitted, and EPA approved, a CAIR SIP revision based on the model state rules establishing CAIR state trading programs for annual SO_2, annual NO_X, and ozone season NO_X emissions, with certain non-EGUs included in the state's CAIR ozone season NO_X trading program. *See* 74 FR 38536 (August 4, 2009).

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *North Carolina* v. *EPA,* 550 F.3d 1176 (Dec. 23, 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the Court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR in order to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR required EGUs in affected states, including West Virginia, to participate in federal trading programs to reduce annual SO_2, annual NO_X, and/or ozone season NO_X emissions. The rule also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. CSAPR was to become effective January 1, 2012; however, the timing of CSAPR's implementation was impacted by a number of court actions. Numerous

[1] In October 1998, EPA finalized the ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone''—commonly called the NO_X SIP Call. *See* 63 FR 57356 (October 27, 1998).

parties filed petitions for review of CSAPR in the D.C. Circuit, and on December 30, 2011, the D.C. Circuit stayed CSAPR prior to its implementation and ordered EPA to continue administering CAIR on an interim basis. On August 21, 2012, the court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit's vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the Supreme Court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects but remanded certain state emissions budgets, including the Phase 2 ozone season NO_X budget for West Virginia. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 138 (D.C. Cir. 2015).

Throughout the initial round of D.C. Circuit proceedings and the ensuing Supreme Court proceedings, the stay on CSAPR remained in place, and EPA continued to implement CAIR. Following the April 2014 Supreme Court decision, EPA filed a motion asking the D.C. Circuit to lift the stay in order to allow CSAPR to replace CAIR in an equitable and orderly manner while further D.C. Circuit proceedings were held to resolve remaining claims from petitioners.

Additionally, EPA's motion requested delay, by three years, of all CSAPR compliance deadlines that had not passed as of the approval date of the stay. On October 23, 2014, the D.C. Circuit granted EPA's request, and on December 3, 2014 (79 FR 71663), in an interim final rule, EPA set the updated effective date of CSAPR as January 1, 2015 and delayed the implementation of CSAPR Phase I to 2015 and CSAPR Phase 2 to 2017. In accordance with the interim final rule, EPA stopped administering the CAIR state and federal trading programs with respect to emissions occurring after December 31, 2014, and EPA began implementing CSAPR on January 1, 2015.[2]

In October 2016, EPA promulgated the CSAPR Update (81 FR 74504, Oct. 26, 2016). In the CSAPR Update, EPA responded to the remand of West Virginia's Phase 2 ozone season NO_X budget by withdrawing the requirement for West Virginia EGUs to participate, after 2016, in the original CSAPR ozone season NO_X trading program, which had addressed the state's transport obligations with respect to the 1997 ozone NAAQS and required the state's EGUs to participate starting in 2017 in a new CSAPR ozone season NO_X trading program to address (in part) the state's transport obligations with respect to the 2008 ozone NAAQS.

As noted above, starting in January 2015, the CSAPR federal trading programs for annual NO_X, ozone season NO_X and annual SO_2 were applicable in West Virginia. Thus, since January 1, 2015, EPA has not administered the CAIR state trading programs for annual NO_X, ozone season NO_X, or annual SO_2 emissions established by the West Virginia regulations.

On July 13, 2016, the State of West Virginia, through the West Virginia Department of Environmental Protection (WVDEP), submitted three SIP revisions requesting EPA to remove from its SIP three regulations that implemented the CAIR state trading programs: Regulation 45CSR39—Control of Annual Nitrogen Oxides Emissions, Regulation 45CSR40—Control of Ozone Season Nitrogen Oxides Emissions, and Regulation 45CSR41—Control of Annual Sulfur Dioxide Emissions. On September 25, 2017 (41 FR 44525), EPA published a direct final rulemaking notice (DFRN) for the State of West Virginia. In the DFRN, EPA approved the West Virginia SIP submittals requesting removal of Regulation 45CSR39 and Regulation 45CSR41 from the West Virginia SIP, and explained that it would take separate action on Regulation 45CSR40 at a future date. On the same date (41 FR 44544), EPA published a notice of proposed rulemaking (NPR) for the removal action. EPA published the DFRN without prior proposal because the Agency viewed the submittals as noncontroversial and anticipated no adverse comments. EPA explained that if adverse comments were received during the comment period, the DFRN would be withdrawn and all public comments received would be addressed in a subsequent final rule based on the September 25, 2017 proposed rule. EPA received an adverse comment, and on December 12, 2017 (82 FR 58341), withdrew the DFRN.

II. Summary of SIP Revision and EPA Analysis

WVDEP submitted two SIP revisions on July 13, 2016 that requested the removal from the West Virginia SIP of the State's regulations (45CSR39 and 45CSR41) which implemented respectively West Virginia's state CAIR annual NO_X and annual SO_2 trading programs. As noted previously, the CAIR annual NO_X and SO_2 reduction programs addressed interstate transport of emissions for the 1997 $PM_{2.5}$ NAAQS. The D.C. Circuit remanded CAIR to EPA for replacement, and in response EPA promulgated CSAPR which, among other things, fully addresses West Virginia's interstate transport obligations with regard to the 1997 $PM_{2.5}$ NAAQS. *See* 76 FR at 48210. Once the transport obligations formerly addressed through the CAIR trading programs began to be addressed through implementation of the CSAPR trading programs in January 2015, EPA stopped administering the CAIR trading programs, including West Virginia's state CAIR annual NO_X and SO_2 programs created by 45CSR39 and 45CSR41. Consequently, these two state rules no longer play any role in remedying the transport obligation that the state adopted them to address, which is now being met through other rules. Further, these two state rules do not serve any other purpose (such as helping to address requirements for certain non-EGUs under the NO_X SIP Call). Therefore, EPA determines it is appropriate for these two state regulations implementing CAIR to be removed in their entirety from the West Virginia SIP.

III. Public Comments and EPA Responses

One commenter submitted two comments on the proposed approval of WVDEP's July 13, 2016 submittals requesting removal of Regulations 45CSR39 and 45CSR41 from the West Virginia SIP.

Comment 1: The commenter stated that EPA can only remove the CAIR NO_X annual and SO_2 annual trading programs at the same time as the NO_X ozone season program, and EPA cannot remove two of the three programs without adequately explaining why these programs can be removed separately.

EPA Response to Comment 1: West Virginia's regulations that implemented the CAIR trading programs were established in three separate regulations: Regulation 45CSR39—Control of Annual Nitrogen Oxides Emissions, Regulation 45CSR40—Control of Ozone Season Nitrogen Oxides Emissions, and Regulation 45CSR41—Control of Annual Sulfur Dioxide Emissions. These regulations were designed to allow West Virginia to participate in the regional trading programs administered by EPA to meet the requirements of CAIR. The regional trading programs under CAIR were

[2] EPA solicited comment on the interim final rule and subsequently issued a final rule affirming the amended compliance schedule after consideration of comments received. 81 FR 13275 (March 14, 2016).

separate trading programs for annual NO_X, ozone season NO_X, and annual SO_2, and affected states had the flexibility to participate in one or more of the trading programs. Adoption of one of the trading programs in a SIP was not dependent on adoption of any of the other trading programs into the state's SIP, and each is therefore severable from one another. West Virginia submitted three stand-alone SIP submittals on July 13, 2016, each submittal requesting removal of one of the three CAIR regulations from the West Virginia SIP. As these were three separate submittals to remove separate state regulations for separate regional trading programs, EPA can take independent action on each of the submittals in accordance with section 110 of the CAA. The commenter has not cited any authority that precludes EPA from taking such independent actions, or any harm that would arise from EPA's approval of West Virginia's of the CAIR NO_X annual and SO_2 annual trading programs separate from the NO_X ozone season trading program.

Comment 2: The commenter also stated that EPA cannot simply say that the removals are in accordance with section 110(l) of the CAA, but needs to explain how the removals meet the section 110(l) requirements.

EPA Response to Comment 2: Regarding the commenter's concerns with respect to the requirements of CAA section 110(l), as noted previously in this rulemaking and in the DFRN, EPA is no longer administering the CAIR trading programs for annual NO_X and SO_2, including West Virginia's State CAIR programs created by 40CSR39 and 40CSR41. Because the State CAIR trading programs created by these rules are no longer being implemented, and because the rules serve no other purpose, removal of the rules from the SIP does not interfere with any applicable requirement concerning attainment or any other requirement of the CAA.

IV. Final Action

EPA is approving the two July 13, 2016 West Virginia SIP revision submissions which seek removal from the West Virginia SIP of Regulation 45CSR39 that implemented the CAIR annual NO_X trading program and Regulation 45CSR41 that implemented the CAIR annual SO_2 trading program. Removal of these two regulations from the West Virginia SIP is in accordance with section 110 of the CAA.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 rule removing West Virginia regulations 45CSR39 and 45CSR41 from the West Virginia SIP does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action removing West Virginia regulations 45CSR39 and 45CSR41 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: January 25, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

§ 52.2520 [Amended]

■ 2. In § 52.2520, the table in paragraph (c) is amended by:

■ a. Removing the table heading ''[45 CSR] Series 39 Control of Annual Nitrogen Oxide Emissions to Mitigate Interstate Transport of Fine Particulate Matter and Nitrogen Oxides'' and the entries ''Section 45–39–1'' through ''Section 45–39–90'';

■ b. Removing the table heading ''[45 CSR] Series 41 Control of Annual Sulfur Dioxides Emissions'' and the entries ''Section 45–41–1'' through ''Section 45–41–90''.

[FR Doc. 2018–02463 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–9973–51–OAR]

RIN 2060–AM75

Issuance of Guidance Memorandum, ''Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Issuance and withdrawal of guidance memorandums.

SUMMARY: The Environmental Protection Agency (EPA) is notifying the public that it has issued the guidance memorandum titled ''Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act''. The EPA is also withdrawing the memorandum titled ''Potential to Emit for MACT Standards—Guidance on Timing Issues.''

DATES: Effective on February 8, 2018.

ADDRESSES: You may view this guidance memorandum electronically at: *https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean.*

FOR FURTHER INFORMATION CONTACT: Ms. Elineth Torres or Ms. Debra Dalcher, Policy and Strategies Group, Sector Policies and Programs Division (D205–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–4347 or (919) 541–2443, respectively; and email address: *torres.elineth@epa.gov* or *dalcher.debra@epa.gov,* respectively.

SUPPLEMENTARY INFORMATION: On January 25, 2018, the EPA issued a guidance memorandum that addresses the question of when a major source subject to a maximum achievable control technology (MACT) standard under CAA section 112 may be reclassified as an area source, and thereby avoid being subject thereafter to major source MACT and other requirements applicable to major sources under CAA section 112. As is explained in the memorandum, the plain language of the definitions of ''major source'' in CAA section 112(a)(1) and of ''area source'' in CAA section 112(a)(2) compels the conclusion that a major source becomes an area source at such time that the source takes an enforceable limit on its potential to emit (PTE) hazardous air pollutants (HAP) below the major source thresholds (*i.e.,* 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP). In such circumstances, a source that was previously classified as major, and which so limits its PTE, will no longer be subject either to the major source MACT or other major source requirements that were applicable to it as a major source under CAA section 112.

A prior EPA guidance memorandum had taken a different position. *See* Potential to Emit for MACT Standards—Guidance on Timing Issues.'' John Seitz, Director, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, (May 16, 1995) (the ''May 1995 Seitz Memorandum''). The May 1995 Seitz Memorandum set forth a policy, commonly known as ''once in, always in'' (the ''OIAI policy''), under which ''facilities may switch to area source status at any time until the 'first compliance date' of the standard,'' with ''first compliance date'' being defined to mean the ''first date a source must comply with an emission limitation or other substantive regulatory requirement.'' May 1995 Seitz Memorandum at 5. Thereafter, under the OIAI policy, ''facilities that are major sources for HAP on the 'first compliance date' are required to comply permanently with the MACT standard.'' *Id.* at 9.

The guidance signed on January 25, 2018, supersedes that which was contained in the May 1995 Seitz Memorandum.

The EPA anticipates that it will soon publish a **Federal Register** document to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute as discussed in this memorandum.

Dated: January 25, 2018.

Panagiotis E. Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2018–02331 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 27, 54, 73, 74, and 76

[MB Docket No. 17–105; FCC 18–3]

Deletion of Rules Made Obsolete by the Digital Television Transition

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) eliminates rules that have been made obsolete by the digital television transition.

DATES: These rule revisions are effective on February 8, 2018.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (Order), FCC 18–3, adopted and released on January 24, 2018. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-18-3A1.docx.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and

Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). 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.

Synopsis

1. In this Order, we make non-substantive, editorial revisions to parts 27, 54, 73, 74, and 76 of the Commission's rules as part of our continuing efforts to modernize our media regulations and eliminate unnecessary rules.[1] These revisions delete rule provisions that are without current legal effect and are therefore obsolete.[2]

2. We delete rules that impose consumer notification and station interference protection obligations relating to the analog-to-digital transition for full power television broadcast stations (DTV transition), which concluded on June 12, 2009. In particular, we delete §§ 27.20, 54.418, 73.616(a) and the accompanying Note, 73.674, 73.3526(e)(11)(iv), 73.3527(e)(13) and 76.1630 of the Commission's rules, which are without current legal effect and obsolete. We also delete the Note to § 73.625(a)(1), which sets forth outdated DTV principal community coverage minimum field strength requirements applicable to certain television broadcast licensees.

3. In addition, we delete rules that were adopted in conjunction with full power analog television broadcasting, which is no longer permitted. Specifically, we delete §§ 73.607, 73.610, 73.611, 73.671(d), 73.6011, 73.6016, and 74.705 of the Commission's rules, which are without current legal effect and obsolete. In addition, we amend § 73.606 of our rules by deleting the Table of Allotments applicable to full power analog television broadcast service and cross-referencing § 73.622(i), which sets forth the Post-Transition Table of DTV Allotments and is the ''successor regulation'' to § 73.606.[3]

4. The rule revisions adopted in this Order are non-substantive, editorial revisions. Because these revisions merely eliminate provisions that are no longer effective and thus obsolete, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose. For the same reason, and to expedite the elimination of such obsolete references for the benefit of the public, we find good cause to make these rule revisions effective upon publication in the **Federal Register**.

5. Because these rule changes do not require notice and comment, the Regulatory Flexibility Act does not apply.

6. The Commission will send a copy of the Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

7. Accordingly, *it is ordered* that, effective upon publication in the **Federal Register**, parts 27, 54, 73, 74, and 76 of the Commission's rules *are amended* pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and in sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), 553(d)(3).

List of Subjects

47 CFR Parts 27 and 54

Communications, Communications common carriers, Telecommunications.

47 CFR Parts 73 and 74

Communications, Television.

47 CFR Part 76

Cable television, Communications, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 27, 54, 73, 74, and 76 as follows:

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 1. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

§ 27.20 [Removed]

■ 2. Remove § 27.20.

PART 54—UNIVERSAL SERVICE

■ 3. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

§ 54.418 [Removed]

■ 4. Remove § 54.418.

PART 73—RADIO BROADCAST SERVICES

■ 5. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

■ 6. Revise § 73.606 to read as follows:

§ 73.606 Table of allotments.

The table of allotments set forth in § 73.622(i) contains the channels designated for the listed communities in the United States, its Territories, and possessions. Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only.

§§ 73.607, 73.610, and 73.611 [Removed]

■ 7. Remove §§ 73.607, 73.610, and 73.611.

§ 73.616 [Amended]

■ 8. Amend § 73.616 by removing paragraph (a), redesignating paragraphs (b) through (f) as paragraphs (a) through (e), and removing the note to § 73.616.

§ 73.625 [Amended]

■ 9. Amend § 73.625(a)(1) by removing the note to the paragraph.

§ 73.671 [Amended]

■ 10. Amend § 73.671 by removing and reserving paragraph (d).

§ 73.674 [Removed]

■ 11. Remove § 73.674.

§ 73.3526 [Amended]

■ 12. Amend § 73.3526 by removing paragraph (e)(11)(iv).

[1] *Commission Launches Modernization of Media Regulation Initiative,* Public Notice, 32 FCC Rcd 4406 (MB 2017).

[2] We delegate authority to the Media Bureau to make conforming amendments to other Commission rules that cross-reference the rule sections deleted in this Order.

[3] Section 73.606 (the analog TV Table of Allotments) is referenced in the statutory definition of a ''qualified noncommercial educational television station'' that qualifies for must carry rights, although the statute also refers to ''any successor regulation'' to § 73.606. The ''successor regulation'' to § 73.606 is § 73.622(i), the Post-Transition Table of DTV Allotments. During the post-incentive auction transition process, the Commission has explained that it will not use a codified Table of Allotments to implement post-auction channel changes and that the Media Bureau intends to initiate a proceeding to amend § 73.622 of the rules to reflect all new full power channel assignments as well as NCE status in a revised Table of Allotments.

§ 73.3527 [Amended]

■ 13. Amend § 73.3527 by removing and reserving paragraph (e)(13).

§§ 73.6011 and 73.6016 [Removed]

■ 14. Remove §§ 73.6011 and 73.6016.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 15. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336 and 554.

§ 74.705 [Removed]

■ 16. Remove § 74.705.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 17. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

§ 76.1630 [Removed]

■ 18. Remove § 76.1630.

[FR Doc. 2018–02552 Filed 2–7–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 170831846–8105–02]

RIN 0648–BH21

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Testing and Training Activities Conducted in the Eglin Gulf Test and Training Range in the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: Upon application from the United States Air Force (USAF), 96th Civil Engineer Group/Environmental Planning Office (96 CEG/CEIEA) at Eglin Air Force Base (hereafter referred to as Eglin AFB), NMFS is issuing regulations under the Marine Mammal Protection Act (MMPA) for the taking of marine mammals incidental to conducting testing and training activities in the Eglin Gulf Test and Training Range (EGTTR) in the Gulf of Mexico over the course of five years. These regulations allow NMFS to issue a Letter of Authorization (LOA) for the incidental take of marine mammals during the specified testing and training activities carried out during the rule's period of effectiveness, set forth the permissible methods of taking, set forth other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and set forth requirements pertaining to the monitoring and reporting of the incidental take. The specific activities are classified as military readiness activities.

DATES: Effective February 13, 2018 through February 12, 2023.

ADDRESSES: To obtain an electronic copy of the USAF 96 CEG/CEIEA's LOA application or other referenced documents, visit the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* Documents cited in this rule may also be viewed, by appointment, during regular business hours, at 1315 East-West Highway, SSMC III, Silver Spring, MD 20912.

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the 96 CEG/CEIEA's application, NMFS proposed rule (82 FR 61372; December 27, 2017), the USAF's *Eglin Gulf Test and Training Range Environmental Assessment* (Navy 2015) and NMFS Finding of No Significant Impact (FONSI) may be obtained by visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* Documents cited in this rule may also be viewed, by appointment, during regular business hours, at the aforementioned address (see **ADDRESSES**).

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity, as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this rule and any subsequent LOA pursuant to those regulations. As directed by this legal authority, this final rule contains mitigation, monitoring, and reporting requirements.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the Secretary sets forth permissible methods of taking and other means of effecting the least practicable impact on the species or stock and its habitat. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The National Defense Authorization Act for Fiscal Year 2004 (Section 319, Pub. L. 108–136, November 24, 2003) (NDAA of 2004) removed the ''small numbers'' and ''specified geographical region'' limitations indicated earlier and amended the definition of harassment as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA, 16 U.S.C. 1362(18)(B)): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review the proposed action (*i.e.,* the issuance of regulations and an LOA) with respect to potential impacts on the human environment.

Accordingly, NMFS has adopted the USAF's *Eglin Gulf Test and Training Range Environmental Assessment* and after an independent evaluation of the document found that it included adequate information analyzing the effects on the human environment of

issuing incidental take authorizations. In February 2018, NMFS issued a Finding of No Significant Impact (FONSI). The final EA and FONSI are available at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm.*

Summary of Request

On September 16, 2015, NMFS received a request for regulations from Eglin AFB for the taking of marine mammals incidental to testing and training activities in the EGTTR (defined as the area and airspace over the Gulf of Mexico controlled by Eglin AFB, beginning at a point three nautical miles (NM) off the coast of Florida) for a period of five years. Eglin AFB worked with NMFS to revise the model used to calculate take estimates and submitted a revised application on April 15, 2017. The application was considered adequate and complete on October 30, 2017.

On August 24, 2017, we published a notice of receipt of Eglin AFB's application in the **Federal Register** (82 FR 40141), requesting comments and information for thirty days related to Eglin AFB's request. We did not receive any comments from the public. We subsequently published a notice of proposed rulemaking in the **Federal Register** on December 27, 2017 (82 FR 61372), again requesting public comments.

NMFS previously issued incidental take authorizations for activities taking place in the EGTTR. On April 23, 2012, NMFS promulgated rulemaking and issued an LOA for takes of marine mammals incidental to Eglin AFB's Naval Explosive Ordnance Disposal School (NEODS) training operations at Eglin AFB. This rule expired on April 24, 2017 (77 FR 16718; March 22, 2012). On March 5, 2014, NMFS promulgated rulemaking and issued an LOA for takes of marine mammals incidental to Eglin AFB's Special Operations Command (AFSOC) precision strike weapons (PSW) and air-to-surface (AS) gunnery activities in the EGTTR, which is valid through March 4, 2019 (79 FR 13568; March 11, 2014). In addition to these rules and LOAs, NMFS has issued Incidental Harassment Authorizations (IHA) for take of marine mammals incidental to Eglin AFB's Maritime Strike Operations (78 FR 52135; August 22, 2013; valid August 19, 2013 through August 18, 2014) and Maritime Weapons Systems Evaluations Program (WSEP) annually in 2015 (80 FR 17394), 2016 (81 FR 7307), and 2017 (82 FR 10747) which currently expires on February 3, 2018. Eglin AFB complied with all conditions of the LOAs and IHAs issued, including submission of final reports. Information regarding their monitoring results may be found in the Effects of the Specified Activity on Marine Mammals and their Habitat section. Based on these reports, NMFS has determined that impacts to marine mammals were not beyond those anticipated. Eglin AFB's current LOA would supersede the existing PSW and AS gunnery rule that is in effect until March 4, 2019, and would include all of Eglin AFB's testing and training activities, including WSEP activities, into one new rule with the exception of NEODS training activities. Eglin AFB has never conducted any NEODS training activities and is not including these activities as part of the new rulemaking.

Summary of Major Provisions Within the Final Rule

Following is a summary of some of the major provisions applicable to Eglin AFB's Testing and training missions in the EGTTR. We have determined that Eglin AFB's adherence to the mitigation, monitoring, and reporting measures included in this rule would achieve the least practicable adverse impact on the affected marine mammals. The provisions, which are generally designed to minimize the duration and total volume of explosive detonations, include:

- Monitoring will be conducted by personnel who have completed Eglin's Marine Species Observer Training Course, which was developed in cooperation with the National Marine Fisheries Service;
- For each live mission, at a minimum, pre- and post-mission monitoring will be required. Monitoring will be conducted from a given platform depending on the specific mission. The purposes of pre-mission monitoring are to (1) evaluate the mission site for environmental suitability and (2) verify that the zone of influence (ZOI) is free of visually detectable marine mammals and potential marine mammal indicators. Post-mission monitoring is designed to determine the effectiveness of pre-mission mitigation by reporting sightings of any dead or injured marine mammals;
- Mission delay will be implemented during live ordnance mission activities if protected species, large schools of fish, or large flocks of birds are observed feeding at the surface within the ZOI. Mission activities may not resume until the animals are observed moving away from the ZOI or 30 minutes have passed;
- Mission delay will be implemented if daytime weather and/or sea conditions preclude adequate monitoring for detecting marine mammals and other marine life. EGTTR missions may not resume until adequate sea conditions exist for monitoring;
- If unauthorized takes of marine mammals (*i.e.,* serious injury or mortality) occur, ceasing operations and reporting to NMFS immediately and submitting a report to NMFS within 24 hours;
- Aerial-based monitoring will be employed which provides an excellent viewing platform for detection of marine mammals at or near the surface;
- Video-based monitoring via live high-definition video feed will be employed which facilitates data collection for the mission but can also allow remote viewing of the area for determination of environmental conditions and the presence of marine species up to the release time of live munitions;
- Vessel-based monitoring will be employed; and
- Ramp-up procedures will be implemented during gunnery operations.

Detailed Description of the Specified Activity

The proposed rule (82 FR 61372; December 27, 2017) and the 96 CEG/CEIEA's EA include a complete description of the USAF's specified training activities for which NMFS is authorizing incidental take of marine mammals in this final rule. Surface and sub-surface detonations are the stressors most likely to result in impacts on marine mammals that could rise to the level of harassment. The aforementioned documents can be found at *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*). The description of location, delivery aircraft, and weapon types remain unchanged, and we incorporate this description by reference, and provide a summary below.

Eglin AFB will conduct military aircraft missions within the EGTTR that involve the employment of multiple types of live (explosive) and inert (non-explosive) munitions against various surface targets. Munitions may be delivered by multiple types of aircraft including, but not limited to, fighter jets, bombers, and gunships. Munitions consist of bombs, missiles, rockets, and gunnery rounds. The targets may vary, but primarily consist of stationary, towed, or remotely controlled boats, inflatable targets, or marking flares. Detonations may occur in the air, at the water surface, or approximately 10 feet (ft) below the surface. Absent mitigation, mission activities planned in the EGTTR have the potential to expose cetaceans to sound or pressure levels

currently associated with mortality, Level A harassment, and Level B harassment, as defined by the MMPA.

Testing and training missions would be conducted during any time of the year. Missions that involve inert munitions and in-air detonations may occur anywhere in the EGTTR. Aside from gunnery operations, mission activities that release live ordnance resulting in surface or subsurface detonations would be conducted at a pre-determined location approximately 17 miles offshore of Santa Rosa Island, in a water depth of about 35 meters (m) (115 ft).

All activities will take place within the EGTTR, which is defined as the airspace over the Gulf of Mexico controlled by Eglin AFB, beginning at a point 3 NM from shore. The EGTTR is subdivided into blocks consisting of Warning Areas W–155, W–151, W–470, W–168, and W–174, as well as Eglin Water Test Areas 1 through 6 (See Figure 1–2 in Application). Most of the blocks are further sub-divided into smaller airspace units for scheduling purposes (for example, W–151A, B, C, and D). However, most of the activities will occur in W–151, and the great majority will occur specifically in sub-area W–151A due to its proximity to shore (Figure 1–3 in Application). Descriptive information for all of W–151 and for W–151A specifically is provided below.

Eglin AFB plans to conduct the following actions in the EGTTR: (1) 86th Fighter Weapons Squadron (86 FWS) Maritime Weapons System Evaluation Program (WSEP) test missions that involve the use of multiple types of live and inert munitions (bombs and missiles) detonated above, at, or slightly below the water surface; (2) Advanced Systems Employment Project actions that involve deployment of a variety of pods, air-to-air missiles, bombs, and other munitions (all inert ordnances in relation to EGTTR); (3) Air Force Special Operations Command (AFSOC) training, including air-to-surface gunnery missions involving firing live gunnery rounds at targets on the water surface in EGTTR, small diameter bomb (SDB) and Griffin/Hellfire missile training involving the use of live missiles and SDBs in the EGTTR against small towed boats, and CV–22 tiltrotor aircraft training involving the firing of 0.50 caliber (cal.)/7.62 mm ammunition at flares floating on the EGTTR water surface; (4) 413th Flight Test Squadron (FLTS) Precision Strike Program (PSP) activities involving firing munitions at flare targets on the EGTTR water surface and Stand-Off Precision Guided Munitions (SOPGM) testing involving captive-carry, store separation, and weapon employment tests; (5) 780th Test Squadron (TS) activities involving precision strike weapon (PSW) test missions (launch of munitions against targets in the EGTTR) and Longbow Littoral Testing (data collection on tracking and impact ability of the Longbow missile on small boats); (6) 96th Test Wing Inert Missions (developmental testing and evaluation for wide variety of air-delivered weapons and other systems using inert bombs); and (7) 96 Operations Group (OG) missions, which involve the support of air-to-surface missions for several user groups within EGTTR.

During these activities, ordnances may be delivered by multiple types of aircraft, including bombers and fighter aircraft. The actions include air-to-ground missiles (AGM); air intercept missiles (AIM); bomb dummy units (BDU); guided bomb units (GBU); projectile gun units (PGU); cluster bomb units (CBU); wind-corrected munitions dispensers (WCMD); small-diameter bombs (SDB) and laser small diameter bombs (LSDB); high explosive incendiary units (HEI); joint direct attack munitions (JDAM) and laser joint direct attack munitions (LJDAM); research department explosives (RDX); joint air-to-surface stand-off missiles (JASSM); high altitude anti-submarine warfare weapons (inert); high-speed maneuverable surface targets; and gunnery rounds. Net explosive weight (NEW) of the live munitions ranges from 0.1 to 945 pounds (lb).

The EGTTR testing and training missions are classified as military readiness activities and involve the firing or dropping of air-to-surface weapons. Depending on the requirements of a given mission, munitions may be inert (contain no or very little explosive charges) or live (contain explosive charges). Live munitions may detonate above, at, or slightly below the water surface. In most cases, missions consisting of live bombs, missiles, and rockets that detonate at or below the water surface will occur at a site in W–151A that has been designated specifically for these types of activities. Typically, test data collection is conducted from an instrumentation barge known as the Gulf Range Armament Test Vessel (GRATV) anchored on-site, which provides a platform for cameras and weapon-tracking equipment. Therefore, the mission area is referred to as the GRATV target location. Alternative site locations may be selected, if necessary, within a 5-mile radius around the GRATV point. Missions that involve inert munitions and in-air detonations may occur anywhere in the EGTTR but are typically conducted in W–151.

For this LOA, descriptions of mission activities that involve in-water detonations include a section called Mission-Day Categorization. This subsection describes the mission-day scenario used for acoustic modeling and is based on the estimated number of weapons released per day. This approach is meant to satisfy NMFS' requests to analyze and assess acoustic impacts associated with accumulated energy from multiple detonations occurring over a 24-hour timeframe. Eglin AFB used all available information to develop each mission-day scenario, including historical release records; however, these scenarios may not represent exact weapon releases because military needs and requirements are in a constant state of flux. The mission-day categorizations provide high-, medium-, and low-intensity mission-day scenarios for some groups and an average scenario for other groups. Mission-day scenarios vary for each user group and are described in the following sections.

Note that additional testing and training activities are planned for the EGTTR that will not result in any acoustic impacts to marine mammals and, therefore, not require any acoustic analyses. Examples include the firing of 0.50 caliber and 7.62 gunnery rounds that do not contain explosives, use of airburst-only detonations, and operations involving simulated weapons delivery. Those activities are described in detail in the Application but are not discussed here.

86th Fighter Weapons Squadron Maritime Weapons System Evaluation Program

The 86 FWS would continue to use multiple types of live and inert munitions in the EGTTR against small boat targets for the Maritime WSEP Operational Testing Program. The purpose of the testing is to continue the development of tactics, techniques and procedures (TTP) for USAF strike aircraft to counter small maneuvering surface vessels in order to better protect vessels or other assets from small boat threats.

Proposed aircraft and munitions associated with Maritime WSEP activities are shown in Table 1. Because the focus of the tests would be weapon/target interaction, no particular aircraft would be specified for a given test as long as it met the delivery requirements.

TABLE 1—MARITIME WSEP MUNITIONS AND EXAMPLE AIRCRAFT

Munitions	Aircraft
AGM–114 (Hellfire)	F–15 fighter aircraft.
AGM–176 (Griffin)	F–16 fighter aircraft.
AGM–65 (Mavericks)	F–18 fighter aircraft.
AIM–9X	F–22 fighter aircraft.
BDU–56	F–35 fighter aircraft.
CBU–105 (WCMD)	AC–130 gunship.
GBU–12/GBU–54	A–10 fighter aircraft.
GBU–10/GBU–24	B–1 bomber aircraft.
GBU–31	B–52 bomber aircraft.
GBU–38	B–2 bomber aircraft.
PGU–13/B	MQ–1.
PGU–27	MQ–9.
2.75 in Rockets.	
7.62mm/50 Cal.	
GBU–39 (Laser SDB).	
GBU–53 (SDB II).	

AGM = air-to-ground missile; AIM = air intercept missile; BDU = Bomb, Dummy Unit; GBU = Guided Bomb Unit; PGU = Projectile Gun Unit; CBU = Cluster Bomb Unit; WCMD = Wind-Corrected Munitions Dispenser; mm = millimeters; SDB = Small Diameter Bomb.

Live munitions would be set to detonate either in the air, instantaneously upon contact with a target boat, or after a slight delay (up to 10 millisecond) after impact, which would correspond to a water depth of about 5 to 10 ft. The annual number, height or depth of detonation, explosive material, and net explosive weight (NEW) of each live munition associated with Maritime WSEP is provided in Table 2. The quantity of live munitions tested is considered necessary to provide the intended level of tactics and weapons evaluation, including a number of replicate tests sufficient for an acceptable confidence level regarding munitions capabilities.

TABLE 2—ANNUAL MARITIME WSEP MUNITIONS USE IN THE EGTTR

Type of munition	Number of munitions	Detonations scenario	Warhead—explosive material	NEW (lbs)
GBU–10 or GBU–24	2	Surface or Subsurface.	MK–84—Tritonal	945
GBU–49	4	Surface	Tritonal	300
JASSM	4	Surface	Tritonal	240
GBU–12/–54 (LJDAM)/–38/–32 (JDAM)	10	Surface or Subsurface.	MK–82—Tritonal	192
AGM–65 (Maverick)	8	Surface	WDU–24/B penetrating blast-fragmentation warhead.	86
CBU–105	4	Airburst	10 BLU–108 submunitions with 4 projectiles, parachute, rocket motor & altimeter. 10.69 lbs NEW/submunition (includes 2.15 lbs/projectile).	107.63
GBU–39 (LSDB)	4	Airburst, Surface, or Subsurface.	AFX–757 (Insensitive munition)	37
AGM–114 (Hellfire)	30	Airburst or Surface, Subsurface.	High Explosive Anti-Tank (HEAT) tandem anti-armor metal augmented charge.	29
GBU–53 (SDB II)	4	Airburst, Surface or Subsurface.	PBX–N–109 Aluminized Enhanced Blast, Scored Frag Case, Copper Shape Charge.	22.84
AIM–9X	2	Surface	PBXN–3	7.9
AGM–176 (Griffin)	10	Airburst or Surface	Blast fragmentation	4.58
Rockets (including APKWS)	100	Surface	Comp B–4 HEI	10
PGU–13 HEI 30 mm	1,000	Surface	30 x 173 mm caliber with aluminized RDX explosive. Designed for GAU–8/A Gun System.	0.1
GBU–10	21	Inert	N/A	N/A
GBU–12	27	Inert	N/A	N/A
GBU–24	17	Inert	N/A	N/A
GBU–31	6	Inert	N/A	N/A
GBU–38	3	Inert	N/A	N/A
GBU–54	16	Inert	N/A	N/A
BDU–56	13	Inert	N/A	N/A
AIM–9X	3	Inert	N/A	N/A
PGU–27	46,000	Inert	N/A	N/A

AGM = air-to-ground missile; AIM = air intercept missile; BDU = Bomb, Dummy Unit; CBU = Cluster Bomb Unit; GBU = Guided Bomb Unit; HEI = high explosive incendiary; lbs = pounds; LJDAM = laser joint direct attack munition; LSDB = Laser Small Diameter Bombs; MK = mark; mm = millimeters; NEW = Net Explosive Weight; PGU = Projectile Gun Unit; RDX = research department explosive; SDB = Small Diameter Bomb.

Mission-day categorizations of weapon releases listed in Table 3 were developed based on historical mission data, project engineer input, and future Maritime WSEP requirements. Categories of missions were grouped first using historical weapon releases per day (refer to Maritime Strike and Maritime WSEP annual reports for 2015 and 2016). Next, the most recent weapons evaluation needs and requirements were considered to develop three different scenarios: Categories A, B, and C. Mission-day Category A represents munitions with larger NEW (192 to 945 pounds) with both surface and subsurface detonations. This category includes future requirements and provides flexibility for the military mission. To date, Category A levels of activity have not been conducted under the 86 FWS Maritime WSEP missions and is considered a worst-case scenario. Category B represents munitions with medium levels of NEW (20 to 86 pounds) including surface and subsurface detonations. Category B was developed using actual levels of weapon releases during Maritime WSEP missions (refer to Maritime WSEP annual reports for 2015 and 2016). Category C represents munitions with smaller NEW (0.1 to 13 pounds) and includes surface detonations only.

TABLE 3—MARITIME WSEP MUNITIONS CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/ year	Total Munitions/ year
A	GBU–10/–24/–31	945	Subsurface (10-ft depth)	1	2	2
	GBU–49	300	Surface	2		4
	JASSM	240	Surface	2		4
	GBU–12/-54 (LJDAM)/–38/–32 (JDAM)	192	Subsurface (10-ft depth)	5		10
B	AGM–65 (Maverick)	86	Surface	2	4	8
	GBU–39 (SDB)	37	Surface	1		4
	AGM–114 (Hellfire)	20	Subsurface (10-ft depth)	5		20
C	AGM–176 (Griffin)	13	Surface	5	2	10
	2.75 rockets	12	Surface	50		100
	AIM–9X	7.9	Surface	1		2
	PGU–12 HEI 30 mm	0.1	Surface	500		1,000

AGM = air-to-ground missile; CBU = Cluster Bomb Unit; GBU = Guided Bomb Unit; HEI = high explosive incendiary; JDAM = Joint Direct Attack Munition; LJDAM = Laser Joint Direct Attack Munition; lbs = pounds; NEW = net explosive weight; PGU = Projectile Gun Unit; mm = millimeter; SDB = Small Diameter Bomb.

Advanced Systems Employment Project

The planned Advanced Systems Employment Project (ASEP) action includes evaluating upgrades to numerous research and development, as well as USAF hardware and software, initiatives. F16, F15E, and BAC1–11 aircraft would be used to deploy a variety of pods, air-to-air missiles, bombs, and other munitions. Many of the missions are conducted over Eglin land ranges. However, inert instrumented MK–84 Joint Direct Attack Munition (JDAM) bombs would be expended in W–151 under the planned action. Bombs would be dropped on target boats located 20 to 25 miles offshore. A maximum of 12 over-water missions could be conducted annually, although the number could be as low as 4. There would be no live ordnance associated with ASEP actions in the EGTTR.

Air Force Special Operations Command Training

The USAF Special Operations Command (AFSOC) conducts various training activities with multiple types of munitions in nearshore waters of the EGTTR (W–151). Training activities include air-to-surface gunnery and small diameter bomb/Griffin/Hellfire missile proficiency training. The following subsections describe the planned actions included in Eglin AFB's LOA request.

Air-to-surface gunnery missions involve firing of live gunnery rounds from the AC–130 aircraft at targets on the water surface in the EGTTR.

After target deployment, the firing sequence is initiated. A typical gunship mission lasts approximately five hours without air-to-air refueling, and six hours when refueling is accomplished. A typical mission includes 1.5 to 2 hours of live fire. This time includes clearing the area and transiting to and from the range. Actual firing activities typically do not exceed 30 minutes. The number and type of munitions deployed during a mission varies with each type of mission flown. The 105-mm TR variants are used during nighttime training. Live fire events are continuous, with pauses during the firing usually well under a minute and rarely from two to five minutes.

Gunnery missions could occur any season of year, during daytime or nighttime hours. The quantity of live rounds expended is based on estimates provided by AFSOC regarding the annual number of missions and number of rounds per mission. The 105 mm FU rounds would typically be used during daytime missions, while the 105 mm TR variants would be used at night.

On March 5, 2014, NMFS issued a 5-year LOA in accordance with the MMPA for AFSOC's air-to-surface gunnery activities which is currently valid through March 4, 2019. This LOA request would supersede that authorization for AC–130 air-to-surface gunnery activities for another five years (2018–2023); it incorporates the updated approach to analysis requested by NMFS. No significant changes to these mission activities are anticipated in the foreseeable future. Table 4 shows the annual number of missions and gunnery rounds currently authorized under the existing LOA which will be carried forward for this LOA request.

TABLE 4—SUMMARY OF ANNUAL AFSOC AC–130 GUNNERY OPERATIONS

Munition	NEW (lbs)	Total munitions/year	Number of daytime missions	Number of nighttime missions
105 mm HE (FU)	4.7	750	25	45
105 mm HE (TR)	0.35	1,350		
40 mm HE	0.87	4,480		
30 mm HE	0.1	35,000		
25 mm HE	0.067	39,200		
Total		80,780		

HE = High Explosive; lbs = pounds; mm = millimeter; NEW = net explosive weight; TR = Training Round; FU = Full Up.

Two mission-day scenarios were developed to represent the average number of gunnery rounds expended during daytime and nighttime AC–130 air-to-surface gunnery missions; category D for daytime missions and category E for nighttime missions. The mission-day scenarios developed for AC–130 air-to-surface gunnery missions are shown in Table 5.

TABLE 5—AC–130 GUNNERY OPERATIONS CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/year	Total munitions/year
D	105 mm HE (FU)	4.7	Surface	30	25	750
	40 mm HE	0.87	Surface	64		1,600
	30 mm HE	0.1	Surface	500		12,500
	25 mm HE	0.067	Surface	560		14,000
E	105 mm HE (TR)	0.35	Surface	30	45	1,350
	40 mm HE	0.87	Surface	64		2,880
	30 mm HE	0.1	Surface	500		22,500
	25 mm HE	0.067	Surface	560		25,200
Total					70	80,780

HE = High Explosive; lbs = pounds; mm = millimeter; NEW = net explosive weight; TR = Training Round; FU = Full Up.

413th Flight Test Squadron

The United States Special Operations Command (SOCOM) has requested the 413th Flight Test Squadron (413 FLTS) to demonstrate the feasibility and capability of the Precision Strike Package and the Stand-Off Precision Guided Munitions (SOPGM) missile system on the AC–130 aircraft. SOCOM, in conjunction with A3 Operations at Wright-Patterson AFB, is fielding the new AC–130J for flight characterization, as well as testing and evaluation. AFSOC is integrating some of the same weapons on the AC–130W. Therefore, the activities described below for the 413 FLTS may involve either of these aircraft variants.

413 FLTS mission day scenarios were developed based on the number of mission days planned annually. Up to eleven mission days are planned for 413 FLTS operations annually. The total number of munitions were averaged over each day and are shown in Table 6. All missions would be conducted shoreward of the continental shelf break/200 m isobath as shown in Figure 1–7 in the Application).

TABLE 6—413 FLTS PRECISION STRIKE PACKAGE GUNNERY TESTING CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/year	Total munitions/ year
F	30 mm	0.1	Surface	33	3	99
G	105 mm FU	4.7	Surface	15	4	60
H	105 mm TR	0.35	Surface	15	4	60

FU = full up; lbs = pounds; mm = millimeter; NEW = net explosive weight; TR = Training Round.

Stand off precision guided missiles (SOPGMs) are planned for use in testing feasibility of these missiles on AC–130 aircraft. Weapon employment missions would be flown using any combination of inert and/or live weapons for a final end-to-end check of the system. Table 7 shows the mission-day scenarios and annual number of munitions expended annually for SOPGM testing. The 413 FLTS provided the number of munitions required over a span of four years. The numbers in the table represent the average per year (total number of munitions divided by four).

TABLE 7—413 FLTS SOPGM ANNUAL TESTING CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/year	Total munitions/ year
I	AGM–176 (Griffin)	4.58	Surface	5	2	10
J	AGM–114 (Hellfire)	29	Surface	5	2	10
K	GBU–39 (SDB I)	36	Surface	3	2	6
L	GBU–39 (LSDB)	36	Surface	5	2	10

AGM = Air-To-Ground Missile; GBU = Guided Bomb Unit; lbs = pounds; LSDB = Laser Small Diameter Bomb; SDB = Small Diameter Bomb.

780th Test Squadron

Testing activities conducted by the 780th Test Squadron (780 TS) include Precision Strike Weapon, Longbow missile littoral testing, and several other various future actions.

The U.S. Air Force Life Cycle Management Center and U.S. Navy, in cooperation with the 780 TS, conducts Precision Strike Weapon (PSW) test missions utilizing resources within the Eglin Military Complex, including sites in the EGTTR. The weapons used in testing are the AGM–158 A and B (Joint Air-to-Surface Standoff Missile (JASSM), and the GBU–39/B (SDB I). PSW munitions are shown in Table 8.

TABLE 8—SUMMARY OF ANNUAL PRECISION STRIKE WEAPON TESTS

Munitions	Number of live tests/ year	Total number of live munitions	Number of inert tests/ year	Total number of inert munitions
AGM–158 (JASSM)	2	2	4	4
GBU–39 (SDB I) Single Launch	2	2	4	4
GBU–39 (SDB I) Simultaneous Launch	2	4	4	8

JASSM = Joint Air-To-Surface Stand-Off Missile; SDB = Small Diameter Bomb.

In addition to the above description, future (Phase 2) testing of the SDB is planned by the Air Force Operational Test and Evaluation Center (AFOTEC) as shown in Table 9.

TABLE 9—SUMMARY OF PHASE 1 AND PHASE 2 PRECISION STRIKE WEAPON LIVE TESTS

Weapon	NEW (lbs)	Number of live munitions released	Number of inert munitions released
AGM–158 (JASSM)	240	2	4
GBU–39 (SDB I)	37	2	4
GBU–39 (SDB I) Double Shot	74	2	4
GBU–53 (SDB II)	22.84	2	1

The 780 TS/OGMT missions have been categorized based on the number of weapons released per day, assuming three mission days are planned annually. Representative mission days are shown in Table 10.

TABLE 10—780 TS/OGMT PRECISION STRIKE WEAPON TESTING CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/year	Total munitions/ year
M	AGM–158 (JASSM)	240	Surface	2	1	2
N	GBU–39 (SDB I)	37	Surface	2	1	2
	GBU–39 (SDB I) Double Shot *	74	Surface	2		2
O	GBU–53 (SDB II)	22.84	Surface	2	1	2

AGM = Air-To-Ground Missile; GBU = Guided Bomb Unit; JASSM = Joint Air-To-Surface Standoff Missile; lbs = pounds; SDB = Small Diameter Bomb.
* NEW is doubled for each simultaneous launch.

The 780 TS plans to conduct other various testing activities that involve targets on the water surface in the EGTTR. Many of the missions would target small boats or barges. Weapons would primarily be delivered by aircraft, although a rail gun would be used for one test. Live warheads would be used for some missions, while others would involve inert warheads with a live fuse (typically contains a very small NEW). Total future munitions for 780 TS are listed in Table 11.

TABLE 11—780 TS ANNUAL MUNITIONS, OTHER FUTURE ACTIONS

Munition	NEW (lbs)	Number of releases	Planned location	Target type	Detonation type
Joint Air-Ground Missile	27.41	2	W–151 (subareas A, S5, and S6).	HSMST or Boston Whaler type boat.	1—Point Detonation 1—Airburst.
Navy Rail Gun	Inert	19	W–151	Barge	Penetrating Rod.
	1	5	W–151	Barge	Airburst.
JDAM—Extended Range	Inert	3	W–151	Water surface (2) Barge (1).	Inert.
Navy HAAWC	Inert	2	W–151	Water surface	Inert.
Laser SDB (live fuse only)	0.4	4	W–151A	Small boats	Airburst or Surface.
SDB II Guided Test Vehicle (live fuse only).	0.4	4	W–151A	Small boats	Surface.

HAAWC = High Altitude Anti-Submarine Warfare Weapon Capability; HSMT = High Speed Maneuverable Surface Target; JDAM = Joint Direct Attack Munition; NEW = net explosive weight; SDB = Small Diameter Bomb.

The 780 TS/OGMT future missions primarily consist of one-day test events for each type of munition. Inert munitions and munitions being detonated as airbursts were not included in the development of these scenarios because no in-water acoustic impacts are anticipated. Therefore representative mission days were developed for live munitions resulting in surface detonations, as shown in Table 12.

TABLE 12—780 TS OTHER FUTURE ACTIONS CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/year	Total munitions/year
P	Joint Air-Ground Missile	27.41	Surface	1	1	1
Q	Laser SDB (fuse only) and SDB II Guided Test Vehicle (fuse only).	0.4	Surface	2	4	8

HAAWC = High Altitude Anti-Submarine Warfare Weapon Capability; HSMT = High Speed Maneuverable Surface Target; JDAM = Joint Direct Attack Munition; N/A = not applicable; NEW = net explosive weight; SDB = Small Diameter Bomb.

96 Operations Group

The 96 Operations Group (OG), which conducts the 96 TW's primary missions of developmental testing and evaluation of conventional munitions, and command and control systems, anticipates support of air-to-surface missions for several user groups on an infrequent basis. As the organization that oversees all users of Eglin ranges, they have the authority to approve new missions that could be conducted in the EGTTR. Specific details on mission descriptions under this category have not been determined, as this is meant to capture future unknown activities. Subsurface detonations would be at 5 to 10 ft below the surface. Projected annual munitions expenditures and detonation scenarios are listed in Table 13.

TABLE 13—ANNUAL MUNITIONS FOR 96TH OPERATIONS GROUP SUPPORT

Munition	NEW (lbs)	Detonation scenario	Number annual releases
GBU–10 or GBU–24	945	Subsurface	1
AGM–158 (JASSM)	240	Surface	1
GBU–12 or GBU–54	192	Subsurface	1
AGM–65 (Maverick)	86	Surface	2
GBU–39 (SDB I or LSDB)	37	Subsurface	4
AGM–114 (Hellfire)	20	Subsurface	20
105 mm full-up	4.7	Surface	125
40 mm	0.9	Surface	600
Live fuse	0.4	Surface	200
30 mm	0.1	Surface	5,000

AGM = air-to-ground missile; GBU = Guided Bomb Unit; lbs = pounds; LSDB = Laser Small Diameter Bomb; SDB = Small Diameter Bomb.

The 96 OG future missions have been categorized based on the number of weapons released per day, instead of treating each weapon release as a separate event. This approach is meant to satisfy NMFS requests for analysis and modeling of accumulated energy from multiple detonations over a 24-hour timeframe. Eglin AFB used all available information to determine these daily estimates, including historic release reports; however, these scenarios may not represent exact weapon releases because military needs and requirements are in a constant state of flux. The mission day scenarios for 96 OG annually are shown in Table 14.

Categories of missions for 96 OG were grouped (similar to Maritime WSEP) first using historical weapon releases per day. Next, the most recent weapons evaluation needs and requirements were considered to develop three different

scenarios: Categories R, S, and T. Mission-day Category R represents munitions with larger NEW (192 to 945 pounds) and both surface and subsurface detonations. This category includes future requirements and provides flexibility for the military mission.

TABLE 14—96 OG FUTURE MISSIONS CATEGORIZED AS REPRESENTATIVE MISSION DAYS

Mission category	Munition	NEW (lbs)	Detonation type	Munitions per day	Mission days/year	Total munitions/ year
R	GBU–10/–24	945	Subsurface (10-ft depth)	1	1	1
	AGM–158 (JASSM)	240	Surface	1		1
	GBU–12 or GBU–54	192	Subsurface (10-ft depth)	1		1
S	AGM–65 (Maverick)	86	Surface	1	2	2
	GBU–39 (SDB I or LSDB)	37	Subsurface	2		4
	AGM–114 (Hellfire)	20	Subsurface (10-ft depth)	10		20
T	105 mm full-up	4.7	Surface	13	10	130
	40 mm	0.9	Surface	60		600
	Live fuse	0.4	Surface	20		200
	30 mm	0.1	Surface	500		5,000

AGM = air-to-ground missile; GBU = Guided Bomb Unit; HEI = high explosive incendiary; JDAM = Joint Direct Attack Munition; LJDAM = Laser Joint Direct Attack Munition; LSDB = Laser Small Diameter Bomb; lbs = pounds; PGU = Projectile Gun Unit; mm = millimeter; SDB = Small Diameter Bomb.

Planned mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of receipt of Eglin AFB's application published in the **Federal Register** on August 24, 2017 (82 FR 40141). NMFS published a proposed rule in the **Federal Register** on December 27, 2017 (82 FR 61372). During the 30-day public comment period on the proposed rule, NMFS received comments from the Marine Mammal Commission (Commission) and seven members of the general public.

Comment 1: The Commission noted that in some instances, the mission area would be determined to be clear of marine mammals at least 30 minutes, and likely longer, before the munitions are detonated. The monitoring vessels and aircraft would move to the periphery of the human safety zone, which the application indicated would be approximately 24 km from the detonation location. In other instances, the mission aircraft would be conducting monitoring during the approximately 15 minutes it takes to fly two orbits around the mission area at an altitude of up to 6,000 ft Given those large areas and high aircraft altitudes, the Commission does not believe that the USAF would be able to monitor effectively for marine mammals entering the mortality and injury zones particularly after the mission area has been cleared and during the timeframe prior to detonation.

NMFS Response: The USAF has successfully employed similar protocols in EGTTR exercises as required under previously issued incidental take authorizations. Past monitoring reports, described in more detail in the Effects of Specified Activities on Marine Mammals and their Habitat section, have not recorded any instances of take over the last five years in past. While the distances from the detonation area are large, these distances are essential to provide protection and safety of humans, both military and civilian, that may be in or near the mission area. The USAF agrees that observing animals from aircraft can be challenging but believes that these pre-mission flights offer an ability to detect marine mammals. Aerial surveys conducted at higher altitudes (up to 6,000 ft) would use optical sensors and instrumentation on the aircraft, which is much more effective than the naked eye. The LOA application summarizes the capabilities for these sensors and provides a figure example of what can be seen with the instrumentation.

Comment 2: The Commission has been recommending that the USAF's mitigation measures be supplemented with passive acoustic monitoring (PAM) since 2010 and that fulfilling the monitoring requirements under section 101(a)(5) of the MMPA, in this case the PAM study, should be made a priority in addition to developing real-time mitigation capability via PAM. For these reasons, the Commission recommends that NMFS compel the USAF to prioritize (1) completing both aspects of its PAM study and (2) further investigating ways to supplement its mitigation measures with the use of real-time PAM devices.

NMFS Response: NMFS has engaged in multiple discussions with the USAF about the implementation of PAM. However, human safety concerns and the inability to make mission go/no-go decisions in a timely manner are the most immediate obstacles for the USAF implementing PAM as part of the suite of mitigation measures during live weapon missions in the EGTTR. For safety purposes during live air-to-surface missions in the EGTTR, a large area of the Gulf of Mexico is closed off to human activity. The human safety zone corresponds to the weapon safety footprint. The size of the closure area varies depending on the weapons being dropped, the type of aircraft being used, and the specific release parameters (direction, altitude, airspeed, etc.) requested by the mission group, but it always encompasses the area occupied by the instrumentation barge (GRATV). Typically, this footprint where personnel are restricted ranges between a 9-nautical mile (nmi) radius up to a 12-nmi radius around the GRATV. As part of PAM, biologists generally deploy an array of hydrophones, listen for vocalizations from a nearby boat, and use software to triangulate an animal's general location. The ability to execute this requires multiple hydrophones lined up in a carefully determined array or fence configuration with a trained biologist in close proximity to the hydrophones. Alternatively, the biologist could be stationed in a remote location but would require a direct line-of-sight for radio links to transmit the data from the hydrophones. The maximum distance that a remote link could be established is estimated to be about 5 nmi. This would fall inside the human safety zone. Therefore, real-time monitoring for marine mammal vocalizations during a mission is not

considered feasible for human safety concerns.

Even if vocalization data were able to be collected in real time in order to determine presence/absence of marine mammals, a decision to delay or stop a mission without knowing where the animals are in relation to the hydrophones and weapon impact location further contributes to the operational constraints for implementing PAM as mitigation. A vocalizing marine mammal could be detected by the hydrophone while outside any zones of impact. Furthermore, the time it would take to collect and transmit vocalization data to remote computers, run the software to localize vocalizations and estimate the location of the animals has not been tested or verified. With high-priority military missions, the USAF cannot jeopardize Department of Defense objectives on unproven methods and unknown procedures. Therefore, a simplified presence/absence of vocalizations as mitigation strategy would not be considered appropriate for these mission activities. Based on other consultations associated with the 86 FWS for activities in Hawaii, where Navy range assets and expertise are far more developed than in the EGTTR, using PAM for real-time mitigation was determined to not be feasible because of the high level of uncertainty with localizing marine mammals using multiple hydrophones, and making mission-critical decisions to delay or cease activities.

The USAF is supportive of PAM and will conduct a NMFS-approved PAM study as an initial step towards understanding acoustic impacts from underwater detonations. However, given the level of success with current mitigation procedures and the high level of unknowns associated with implementing PAM as part of mitigation procedures for EGTTR activities, the USAF does not believe that using PAM as a real-time mitigation measure is practicable at this time.

Comment 3: The Commission expressed concern about the lack of adequate time to provide public comments as well as the abbreviated timeframes during which NMFS is able to address public comments. The Commission recommended that NMFS ensure that it publishes and finalizes proposed incidental harassment authorizations sufficiently before the planned start date of the proposed activities to ensure full consideration is given to all comments received.

Response: NMFS gave the standard 30-day notice for public comment. NMFS also acknowledges the importance of providing MMPA incidental take authorization in a timely (and sometimes expedited) manner for planned activities when the necessary findings are made.

Comment 4: Three citizens asserted that marine life in the Gulf of Mexico should not be disturbed or killed and that training activities can be done without injuring animals.

Response: NMFS appreciates the commenters' concern for the marine environment. However, the commenters' assertion that the Navy's activities in the EGTTR will result in the killing or deaths of marine mammals is incorrect. As discussed throughout this rule and in the *Eglin Gulf Test and Training Range Environmental Assessment.* The majority of predicted takes are by Level B harassment (behavioral reactions and TTS), and there are no mortality takes predicted or authorized for any training activities in the study area. Modeling results estimate that there could be up to 11 Level A takes (2 from slight lung injury and 9 from permanent threshold shift (PTS)). These exposure estimates, however, do not take into account the mitigation and monitoring measures which are expected to decrease the potential for impacts.

After careful analysis, NMFS has determined that serious injury is unlikely to result from this activity.

Comment 5: Several citizens wrote that there is a need for greater transparency in the Endangered Species Act (ESA) listings and determination actions.

Response: The purpose of this final rule and associated LOA is not to make species listings determinations but rather to authorize the incidental take of small numbers of marine mammals within a specific geographic region. Furthermore, take of ESA-listed species is not authorized or expected as a result of testing and training activities in the EGTTR.

Description of Marine Mammals in the Area of Specified Activities

There are 21 marine mammal species with potential or confirmed occurrence in the planned activity area. Not all of these species occur in this region during the project timeframe, or the likelihood of occurrence is very low. The ''Description of Marine Mammals in the Area of the Specified Activities'' section included in the proposed rule (82 FR 61372; December 12, 2018) and sections 3 and 4 of the USAF's application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. These descriptions have not changed and are incorporated here by reference. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.nmfs.noaa.gov/pr/species/mammals/*). Additional information may be found in the USAF 96 CEG/CEIEA EA. Of the 21 species that occur in the northern Gulf of Mexico, two species occur in densities great enough to warrant inclusion in this rule (Table 15). The final list of species is based on summer density estimates, a conservative range-to-effects, and duration of the activity.

TABLE 15—SPECIES AUTHORIZED FOR TAKE *

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Common Bottlenose dolphin.	*Tursiops truncatus*	Choctawatchee Bay	-/-:Y	179 (0.04,173, 2007)	1.7	3.4 (0.99)
		Pensacola/East Bay	-/-:Y	33 (0.80, UNK, 1993)	UND	UND
		St. Andrew Bay	-/-:Y	124 (0.21, UNK, 1993) ..	UND	UND

TABLE 15—SPECIES AUTHORIZED FOR TAKE *—Continued

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
		Gulf of Mexico Northern Coastal.	-/-:N	7,185 (0.21, 6,044, 2012).	60	21 (0.66)
		Northern Gulf of Mexico Continental Shelf.	-/-:N	51,192 (0.10, 46,926, 2012).	469	56 (0.42)
		Northern Gulf of Mexico Oceanic.	-/-;N	5,806 (0.39, 4,230, 2009).	42	6.5 (0.65)
Atlantic spotted dolphin	*Stenella frontalis*	Northern Gulf of Mexico	-/-:N	37,611 (0.28, UNK, 2004).	UND	42 (0.45)

* Hayes *et al.* 2017.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable [explain if this is the case].

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The hearing groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz, with best hearing estimated to be from 100 Hz to 8 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

Two marine mammal species (common bottlenose and Atlantic spotted dolphins) have the reasonable potential to co-occur with the planned survey activities. Both species are classified as mid-frequency cetaceans.

Effects of Specified Activities on Marine Mammals and Their Habitat

In the *Potential Effects of Specified Activities on Marine Mammals* section of the proposed rule (82 FR 61372; December 12, 2017), we included a qualitative discussion of the different ways that activities in the EGTTR may potentially affect marine mammals without consideration of mitigation and monitoring measures.

Previous Monitoring Results

NMFS has previously issued IHAs and an LOA to cover mission activities in the EGTTR. For these missions, Eglin AFB conducted required monitoring activities and submitted monitoring reports. Between August 2013 and March 2014 nine maritime strike operations testing missions were conducted in the EGTTR and no takes were recorded. In calendar year 2014, ten air-to-surface (A–S) gunnery missions were conducted with no recorded takes. During 2015, eight A–S gunnery missions, and eight WSEP missions were conducted (only 4 of these missions used live munitions). No takes of protected species were recorded. For calendar year 2016, two air-to-surface (A–S) gunnery missions, eight WSEP missions, and two PSW missions were conducted with no takes recorded by observers. A report on 2017 EGTTR monitoring activities is currently under development.

While no mortality, injury or take of marine mammals was recorded during these exercises, animals were occasionally observed during pre-

mission surveys on multiple mission days. However, proper measures were taken (delay of missions while waiting on marine mammals to clear the area) to ensure no marine mammals were in the area during the mission. Monitoring reports containing more detailed information may be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

Estimated Take

This section provides the number of incidental takes, by stock, authorized through this final rule, which informs both NMFS' consideration of the negligible impact determination.

For this military readiness activity, the MMPA defines ''harassment'' as: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

Authorized takes would primarily be by Level B harassment, as use of explosive sources has the potential to result in disruption of behavioral patterns and TTS for individual marine mammals. There is also some potential for auditory injury and tissue damage (Level A harassment) to result. The planned mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the authorized take estimate.

Based on the best available science, NMFS used the acoustic and pressure thresholds indicated in Table 16 to predict the onset of behavioral harassment, PTS, tissue damage, and mortality.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation.

The criteria and thresholds used to estimate potential pressure and energy impacts to marine mammals resulting from detonations were obtained from Finneran and Jenkins (2012). Criteria used to analyze impacts to marine mammals include mortality, harassment that causes or is likely to cause injury (Level A) and harassment that disrupts or is likely to disrupt natural behavior patterns (Level B). Each category is discussed below with additional details provided in Appendix A of the application.

Mortality

Mortality risk assessment may be considered in terms of direct injury, which includes primary blast injury and barotrauma. The potential for direct injury of marine mammals has been inferred from terrestrial mammal experiments and from post-mortem examination of marine mammals believed to have been exposed to underwater explosions (Finneran and Jenkins, 2012; Ketten *et al.,* 1993; Richmond *et al.,* 1973). Actual effects on marine mammals may differ from terrestrial animals due to anatomical and physiological differences, such as a reinforced trachea and flexible thoracic cavity, which may decrease the risk of injury (Ridgway and Dailey, 1972).

Primary blast injuries result from the initial compression of a body exposed to a blast wave, and is usually limited to gas-containing structures (*e.g.,* lung and gut) and the auditory system (U.S. Department of the Navy, 2001b). Barotrauma refers to injuries caused when large pressure changes occur across tissue interfaces, normally at the boundaries of air-filled tissues such as the lungs. Primary blast injury to the respiratory system may be fatal depending upon the severity of the trauma. Rupture of the lung may introduce air into the vascular system, producing air emboli that can restrict oxygen delivery to the brain or heart.

Whereas a single mortality threshold was previously used in acoustic impacts analysis, species-specific thresholds are currently required. Thresholds are based on the level of impact that would cause extensive lung injury to one percent of exposed animals (*i.e.,* an impact level from which one percent of exposed animals would not recover). (Finneran and Jenkins, 2012). The threshold represents the expected onset of mortality, where 99 percent of exposed animals would be expected to survive. Most survivors would have moderate blast injuries. The lethal exposure level of blast noise, associated with the positive impulse pressure of the blast, is expressed as Pa·s and is determined using the Goertner (1982) modified positive impulse equation. This equation incorporates source/animal depths and the mass of a newborn calf for the affected species. The threshold is conservative because animals of greater mass can withstand greater pressure waves, and newborn calves typically make up a very small percentage of any cetacean group.

For the actions described in this LOA, two species are expected to occur within the EGTTR Study Area: The bottlenose dolphin and the Atlantic spotted dolphin. Finneran and Jenkins (2012) provide known or surrogate masses for newborn calves of several cetacean species. For the bottlenose dolphin, this value is 14 kilograms (kg) (31 pounds). Values are not provided for the Atlantic spotted dolphin and, therefore, a surrogate species, the striped dolphin (*Stenella coeruleoalba*), is used. The mass provided for a newborn striped dolphin calf is 7 kg (15 pounds). Impacts analysis for the unidentified dolphin group (assumed to consist of bottlenose and Atlantic striped dolphins) conservatively used the mass of the smaller spotted dolphin. The Goertner equation, as presented in Finneran and Jenkins (2012) is used in the acoustic model to develop impacts analysis in this LOA request. The equation is provided in Table 16.

Injury (Level A Harassment)

Potential injuries that may occur to marine mammals include blast related injury: Gastrointestinal (GI) tract injury and slight lung injury, and irrecoverable auditory damage. These injury categories are all types of Level A harassment as defined in the MMPA.

Slight Lung Injury—This threshold is based on a level of lung injury from which all exposed animals are expected to survive (zero percent mortality) (Finneran and Jenkins, 2012). Similar to

the mortality determination, the metric is positive impulse and the equation for determination is that of the Goertner injury model (1982), corrected for atmospheric and hydrostatic pressures and based on the cube root scaling of body mass (Richmond *et al.,* 1973; U.S. Department of the Navy, 2001b). The equation is provided in Table 16.

Gastrointestinal Tract Injuries—GI tract injuries are correlated with the peak pressure of an underwater detonation. GI tract injury thresholds are based on the results of experiments in the 1970s in which terrestrial mammals were exposed to small charges. The peak pressure of the shock wave was found to be the causal agent in recoverable contusions (bruises) in the GI tract (Richmond *et al.,* 1973, in Finneran and Jenkins, 2012). The experiments found that a peak SPL of 237 dB re 1 μPa predicts the onset of GI tract injuries, regardless of an animal's mass or size. Therefore, the unweighted peak SPL of 237 dB re 1 μPa is used in explosive impacts assessments as the threshold for slight GI tract injury for all marine mammals.

Auditory Damage (PTS)—Another type of injury, permanent threshold shift or PTS, is auditory damage that does not fully recover and results in a permanent decrease in hearing sensitivity. As there have been no studies to determine the onset of PTS in marine mammals, this threshold is estimated from available information associated with TTS. According to research by the Navy (Navy, 2017) PTS thresholds are defined differently for three groups of cetaceans based on their hearing sensitivity: Low frequency, mid-frequency, and high frequency. Bottlenose and Atlantic spotted dolphins that are the subject of the EGTTR acoustic impacts analysis both fall within the mid-frequency hearing category. The PTS thresholds use dual criteria, one based on cumulative SEL and one based on peak SPL of an underwater blast. For a given analysis, the more conservative of the two is applied to afford the most protection to marine mammals. The mid-frequency cetacean criteria for PTS are provided in Table 16.

Non-Injurious Impacts (Level B Harassment)

Two categories of Level B harassment are currently recognized: temporary threshold shift (TTS) and behavioral impacts. Although TTS is a physiological impact, it is not considered injury because auditory structures are temporarily fatigued instead of being permanently damaged.

TTS—Non-injurious effects on marine mammals, such as TTS, are generally extrapolated from data on terrestrial mammals (Southall *et al.,* 2007). Similar to PTS, dual criteria are provided for TTS thresholds, and the more conservative is typically applied in impacts analysis. TTS criteria are based on data from impulse sound exposures when available. According to the most recent data (Navy, 2017) the TTS onset thresholds for mid-frequency cetaceans are based on TTS data from a beluga whale exposed to an underwater impulse produced from a seismic watergun. The TTS thresholds consist of the SEL of an underwater blast weighted to the hearing sensitivity of mid-frequency cetaceans and an unweighted peak SPL measure. The dual thresholds for TTS in mid-frequency cetaceans are provided in Table 16.

Behavioral Impacts

Behavioral impacts refer to disturbances that may occur at sound levels below those considered to cause TTS in marine mammals, particularly in cases of multiple detonations. During an activity with a series of explosions (not concurrent multiple explosions shown in a burst), an animal is expected to exhibit a startle reaction to the first detonation followed by a behavioral response after multiple detonations. At close ranges and high sound levels, avoidance of the area around the explosions is the assumed behavioral response in most cases. Other behavioral impacts may include decreased ability to feed, communicate, migrate, or reproduce, among others. Such effects, known as sub-TTS Level B harassment, are based on observations of behavioral reactions in captive dolphins and beluga whales exposed to pure tones, a different type of noise than that produced from an underwater detonation (Finneran and Schlundt, 2004; Schlundt *et al.,* 2000). For multiple, successive detonations (*i.e.,* detonations happening at the same location within a 24-hour period), the threshold for behavioral disturbance is set 5 dB below the SEL-based TTS threshold, unless there are species- or group-specific data indicating that a lower threshold should be used. This is based on observations of behavioral reactions in captive dolphins and belugas occurring at exposure levels approximately 5 dB below those causing TTS after exposure to pure tones (Finneran and Jenkins, 2012; Finneran and Schlundt, 2004; Schlundt *et al.,* 2000).

Table 16 outlines the explosive thresholds, based on the best available science, used by NMFS to predict the onset of disruption of natural behavior patterns, PTS, tissue damage, and mortality.

Table 16. Explosive Criteria and Thresholds Used for Impact Analyses.

Mortality*	Level A Harassment			Level B Harassment	
	Slight Lung Injury[1]	GI Tract Injury	PTS	TTS	Behavioral
$91.4M^{1/3}\left(1+\frac{D}{10.1}\right)^{1/2}$	$39.1M^{1/3}\left(1+\frac{D}{10.1}\right)^{1/2}$	Unweighted SPL: 237 dB re 1 μPa	Weighted SEL: 185 dB re 1 $\mu Pa^2 \cdot s$	Weighted SEL: 170 dB re 1 $\mu Pa^2 \cdot s$	Weighted SEL: 165 dB re 1 $\mu Pa^2 \cdot s$

Marine Mammal Occurrence

Bottlenose and Atlantic spotted dolphin density estimates used in this document were obtained from Duke University Marine Geospatial Ecology Lab Reports (Roberts *et al.,* 2016) which integrated 23 years of aerial and shipboard surveys, linked them to environmental covariates obtained from remote sensing and ocean models, and built habitat-based density models using distance sampling methodology. For bottlenose dolphins, geographic modeling strata from MMPA stock boundaries and seasonal strata were not defined because of the lack of information about seasonality in the Gulf of Mexico, as well as substantial

spatial and seasonal biases in survey efforts (Roberts *et al.,* 2015a). Therefore, bottlenose dolphin numbers were modeled in the Gulf of Mexico using a single year-round model. Similarly for Atlantic spotted dolphins, there is no evidence that this species migrates or exhibits seasonal patterns in the Gulf of Mexico, so a single, year-round model that incorporated all available survey data was used (Roberts *et al.,* 2015b). The model results are available at the OBIS–SEAMAP repository found online (*http://seamap.env.duke.edu/*).

Two marine mammal density estimates were calculated for this LOA. One density estimate is considered a large-scale estimate and is used for missions that could occur anywhere in W–151A, shoreward of the 200-m isobath. The mission sets that utilize the entire W–151A area include AFSOC's Air-to-Surface Gunnery Training Operations and 413 FLTS's AC–130J Precision Strike Package Gunnery Testing (Scenarios D, E, F, G, and H). The other density estimate is considered a fine-scale estimate and is used for missions that are planned specifically around the GRATV target area. The mission sets that utilize the nearshore GRATV target location are 86th FWS Maritime WSEP, 413 FLTS AC–130J and AC–130W Stand-Off Precision Guided Munitions Testing, 780th TS Precision Strike Weapons, 780 TS/OGMT future missions, and 96th OG future missions (Scenarios A, B, C, and I through T). Using two different density estimates based on the mission locations accounts for the differences between inshore and offshore distribution of bottlenose and Atlantic spotted dolphins, and provides more realistic take calculations.

Raster data provided online from the Duke University Marine Geospatial Ecology Lab Report was imported into ArcGIS and overlaid onto the W–151A area. Density values for each species were provided in 10 x 10 km boxes. The large-scale estimates for W–151A were obtained by averaging the density values of these 100 km² boxes within the W–151A boundaries and converted to number of animals per km². Fine-scale estimates were calculated by selecting nine 100 km² boxes centered around the GRATV target location and averaging the density values from those boxes. Large-scale and fine-scale density estimates are provided in Table 17.

TABLE 17—MARINE MAMMAL DENSITY ESTIMATES FOR EGTTR TESTING AND TRAINING ACTIVITIES

Species	Large-scale density estimate [a] (animals per km²)	Fine-scale density estimate [b] (animals per km²)
Bottlenose dolphin [c]	0.276	0.433
Atlantic spotted dolphin [d]	0.160	0.148

[a] Large-scale estimates incorporate the entire W–151A area.
[b] Fine-scale estimates incorporate the nine 10 km² boxes centered around the GRATV location.
[c] Densities derived from Roberts *et al.* 2015a.
[d] Densities derived from Roberts *et al.* 2015b.

Density estimates usually assume that animals are uniformly distributed within the prescribed area, even though this is likely rarely true. Marine mammals are often clumped in areas of greater importance, for example, in areas of high productivity, lower predation, safe calving, etc. Furthermore, assuming that marine mammals are distributed evenly within the water column does not accurately reflect behavior. Databases of behavioral and physiological parameters obtained through tagging and other technologies have demonstrated that marine animals use the water column in various ways. Some species conduct regular deep dives while others engage in much shallower dives, regardless of bottom depth. Assuming that all species are evenly distributed from surface to bottom can present a distorted view of marine mammal distribution in any region. Density is assumed to be two-dimensional, and exposure estimates are, therefore, simply calculated as the product of affected area, animal density, and number of events. The resulting exposure estimates are considered conservative, because all animals are presumed to be located at the same depth, where the maximum sound and pressure ranges would extend from detonations, and would, therefore, be exposed to the maximum amount of energy or pressure. In reality, it is highly likely that some portion of marine mammals present near the impact area at the time of detonation would be at various depths in the water column and not necessarily occur at the same depth corresponding to the maximum sound and pressure ranges.

A mission-day based analysis was utilized in order to model accumulated energy over a 24-hour timeframe where each mission-day scenario would be considered a separate event. As described previously, Eglin AFB developed multiple mission-day categories separated by mission groups and estimated the number of days each category would be executed annually. In total, there are 20 different mission-day scenarios included in the acoustic analysis Labeled A–T. Table 18 below summarizes the number of days each mission-day scenario, or event, would be conducted annually in the EGTTR.

TABLE 18—ANNUAL NUMBER OF DAYS PLANNED FOR EACH MISSION CATEGORY DAY

Mission groups	Mission category day	Number of mission days/year
86 FWS Maritime WSEP	A	2
	B	4
	C	2
AFSOC Air-to-Surface Gunnery	D	25
	E	45
413 FLTS PSP Gunnery	F	3
	G	4

TABLE 18—ANNUAL NUMBER OF DAYS PLANNED FOR EACH MISSION CATEGORY DAY—Continued

Mission groups	Mission category day	Number of mission days/year
	H	4
413 FLTS SOPGM	I	2
	J	2
	K	2
	L	2
780 TS Precision Strike Weapon	M	1
	N	1
	O	1
780 TS Other Tests	P	1
	Q	4
96 OG Future Missions	R	1
	S	2
	T	10

Take Calculation and Estimation

Eglin AFB completed acoustic modeling to determine the distances from their explosive ordnance corresponding to NMFS' explosive thresholds. These distances were then used with each species' density to determine exposure estimates. Below is a summary of the methodology for those modeling efforts. Appendix A in the application provides additional details.

The maximum estimated range, or radius, from the detonation point to the point at which the various thresholds extend for all munitions planned to be released in a 24-hour time period was calculated based on explosive acoustic characteristics, sound propagation, and sound transmission loss in the EGTTR. Results are shown in Table 19. These calculations incorporated water depth, sediment type, wind speed, bathymetry, and temperature/salinity profiles. Transmission loss was calculated from the explosive source depth down to an array of water depth bins (0 to 160 m). Impact volumes were computed for each explosive source (based on the total number of munitions released on a representative mission day). The impact volume is a cylinder extending from surface to seafloor, centered at the sound source with a radius set equal to the maximum range, Rmx, across all depths and azimuths at which the particular metric is still above the threshold. The total energy for all weapons released as part of a representative mission day was calculated to assess impacts from the accumulated energy resulting from multiple weapon releases within a 24-hour period. The number of animals impacted is computed by multiplying the area of a circle with radius Rmax, by the original animal density given in animal per km^2.

TABLE 19—THRESHOLD RADII (IN KILOMETERS) FOR EGTTR AIR-TO-SURFACE TESTING AND TRAINING

Mission-day category	Mortality	Level A harassment				Level B harassment		
		Slight lung injury	GI tract injury	PTS		TTS		Behavioral
	Modified Goertner Model 1	Modified Goertner Model 2	237 dB SPL	185 dB SEL	230 dB Peak SPL	170 dB SEL	224 dB Peak SPL	165 dB SEL
Bottlenose Dolphin								
A	0.427	0.768	0.348	1.039	0.705	5.001	1.302	8.155
B	0.107	0.225	0.156	0.43	0.317	2.245	0.585	3.959
C	0.037	0.085	0.083	0.32	0.169	1.128	0.312	1.863
D	0.024	0.055	0.059	0.254	0.12	0.982	0.222	1.413
E	0.01	0.024	0.034	0.232	0.069	0.878	0.126	1.252
F	0.003	0.007	0.019	0.096	0.033	0.218	0.062	0.373
G	0.024	0.055	0.059	0.167	0.12	0.552	0.222	0.809
H	0.006	0.015	0.025	0.097	0.051	0.229	0.093	0.432
I	0.023	0.054	0.059	0.125	0.119	0.328	0.22	0.572
J	0.045	0.101	0.096	0.167	0.195	0.555	0.36	0.812
K	0.057	0.128	0.117	0.164	0.237	0.541	0.438	0.795
L	0.057	0.128	0.117	0.2	0.237	0.654	0.438	0.953
M	0.12	0.249	0.22	0.211	0.447	0.761	0.825	1.123
N	0.076	0.168	0.149	0.202	0.302	0.671	0.557	0.982
O	0.047	0.107	0.101	0.136	0.204	0.432	0.376	0.64
P	0.051	0.115	0.107	0.116	0.217	0.271	0.4	0.527
Q	0.007	0.016	0.026	0.073	0.053	0.149	0.098	0.207
R	0.427	0.768	0.348	0.811	0.705	4.316	1.302	6.883
S	0.142	0.286	0.156	0.692	0.317	3.941	0.585	5.132
T	0.024	0.055	0.059	0.224	0.12	0.837	0.222	1.209
Atlantic Spotted Dolphin								
A	0.504	0.886	0.348	1.039	0.705	5.001	1.302	8.155
B	0.133	0.266	0.156	0.43	0.317	2.245	0.585	3.959
C	0.047	0.104	0.083	0.32	0.169	1.128	0.312	1.863
D	0.03	0.067	0.059	0.254	0.12	0.982	0.222	1.413
E	0.013	0.03	0.034	0.232	0.069	0.878	0.126	1.252

TABLE 19—THRESHOLD RADII (IN KILOMETERS) FOR EGTTR AIR-TO-SURFACE TESTING AND TRAINING—Continued

Mission-day category	Mortality	Level A harassment				Level B harassment		
		Slight lung injury	GI tract injury	PTS		TTS		Behavioral
	Modified Goertner Model 1	Modified Goertner Model 2	237 dB SPL	185 dB SEL	230 dB Peak SPL	170 dB SEL	224 dB Peak SPL	165 dB SEL
F	0.004	0.009	0.019	0.096	0.033	0.218	0.062	0.373
G	0.03	0.067	0.059	0.167	0.12	0.552	0.222	0.809
H	0.008	0.018	0.025	0.097	0.051	0.229	0.093	0.432
I	0.03	0.067	0.059	0.125	0.119	0.328	0.22	0.572
J	0.057	0.124	0.096	0.167	0.195	0.555	0.36	0.812
K	0.072	0.157	0.117	0.164	0.237	0.541	0.428	0.795
L	0.072	0.157	0.117	0.2	0.237	0.654	0.438	0.953
M	0.15	0.29	0.22	0.211	0.447	0.761	0.825	1.123
N	0.096	0.201	0.149	0.202	0.302	0.671	0.557	0.982
O	0.06	0.131	0.101	0.136	0.204	0.432	0.376	0.64
P	0.065	0.141	0.107	0.116	0.217	0.271	0.4	0.527
Q	0.009	0.02	0.026	0.073	0.053	0.149	0.098	0.207
R	0.504	0.886	0.348	0.811	0.705	4.316	1.302	6.883
S	0.172	0.336	0.156	0.692	0.317	3.941	0.585	5.132
T	0.03	0.067	0.059	0.224	0.12	0.837	0.222	1.209

The ranges presented above were used to calculate the total area (circle) of the zones of influence for each criterion/threshold. To eliminate ''double-counting'' of animals, impact areas from higher impact categories (*e.g.,* mortality) were subtracted from areas associated with lower impact categories (*e.g.,* Level A harassment). The estimated number of marine mammals potentially exposed to the various impact thresholds was calculated with a two-dimensional approach, as the product of the adjusted impact area, animal density, and annual number of events for each mission-day category. The calculations generally resulted in decimal values, suggesting that, in most cases, a fraction of an animal was exposed. The results were therefore rounded at the annual mission-day level and then summed for each criterion to obtain total annual take estimates from all EGTTR mission activities. A ''take'' is considered to occur for SEL metrics if the received level is equal to or above the associated threshold within the appropriate frequency band of the sound received, adjusted for the appropriate weighting function value of that frequency band. Similarly, a ''take'' would occur for impulse and peak SPL metrics if the received level is equal to or above the associated threshold. For impact categories with multiple criteria (*e.g.,* slight lung injury, GI tract injury, and PTS for Level A harassment) and criteria with two thresholds (*e.g.,* 187 dB SEL and 230 peak SPL for PTS), the criterion and/or threshold that yielded the highest exposure estimate was utilized for analysis of detonation impacts and shows the total numbers of marine mammals potentially affected by all EGTTR testing and training mission activities annually (See Table 20). These exposure estimates do not take into account the mitigation and monitoring measures that are expected to decrease the potential for impacts.

Acoustic analysis results indicate the potential for injury and non-injurious harassment (including behavioral harassment) to marine mammals in the absence of mitigation measures. Mortality was calculated as one (1) for bottlenose dolphins and zero (0) for Atlantic spotted dolphin. However, the modeling is conservative and it did not include implementation of the mitigation and monitoring measures, and therefore we believe that mortality is unlikely. Further, the potential for Level A harassment takes would be significantly reduced. As such, NMFS is not authorizing any take due to mortality.

Animals from the Northern Gulf of Mexico stock of spotted dolphins and the Northern Gulf of Mexico Continental shelf stock of bottlenose dolphins are likely to be affected. There is also a chance that a limited number of bottlenose dolphins from the Gulf of Mexico Northern Coastal stock could be affected. Animals from this stock are known to occur in waters greater than 20 m in depth. Even though the 20 m isopleth delineates the stock's range, it is an artificial boundary used for management purposes and is not ecologically based. However, most of the bottlenose dolphins potentially affected would be part of the Northern Gulf of Mexico Continental shelf stock.

TABLE 20—TOTAL NUMBER OF MARINE MAMMALS AUTHORIZED TO BE TAKEN ANNUALLY BY AIR-TO-SURFACE TESTING AND TRAINING MISSIONS IN THE EGTTR

Species	Level A harassment		Level B harassment	
	Slight lung injury	PTS (SEL)	TTS (SEL)	Behavioral
Bottlenose dolphin	2	7	220	315
Atlantic spotted dolphin	0	2	85	120
Total	2	9	305	435

Mitigation

In order to issue an LOA under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action).

The NDAA of 2004 amended the MMPA as it relates to military-readiness activities and the incidental take authorization process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) and the likelihood of effective implementation (probability of being implemented as planned); and

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

Eglin AFB will employ practicable and effective mitigation measures, which include a careful balancing of the likely benefit of any particular measure to the marine mammals with the likely effect of that measure on personnel safety, practicality of implementation, and impact on the military-readiness activity. Required mitigation measures include the following:

Timing Restrictions—With the exception of gunnery operations, missions will take place no earlier than two hours after sunrise. This measure provides observers with adequate visibility necessary for two hour pre-mission monitoring. Missions must also be completed at least 30 minutes before sunset which will allow adequate visibility for post-mission monitoring.

Trained Observers—All monitoring will be conducted by personnel who have completed Eglin's Marine Species Observer Training Course, which was developed in cooperation with NMFS. This training includes a summary of environmental laws, consequences of non-compliance, description of an observer's role, pictures and descriptions of protected species and protected species indicators, survey methods, monitoring requirements, and reporting procedures. The training will be provided to user groups either electronically or in person by an Eglin AFB representative. Any person acting as an observer for a particular mission must have completed the training within the year prior to the mission. Names of personnel who have completed the training will be submitted to Eglin AFB along with the date of completion. In cases where multiple survey platforms are required to cover large survey areas, a Lead Biologist will be designated to lead all monitoring efforts and coordinate sighting information with the Test Director or Safety Officer.

Pre- and Post-Mission Monitoring—For each live mission, at a minimum, pre- and post-mission monitoring will be required. Missions will occur no earlier than two hours after sunrise and no later than two hours prior to sunset to ensure adequate daylight for pre- and post-mission monitoring, with the exception of AFSOC and the 413 FLTS gunnery missions. In those cases, aircrews will utilize aircraft instrumentation and sensors to monitor the area.

Monitoring will be conducted from a given platform depending on the specific mission. The purposes of pre-mission monitoring are to (1) evaluate the mission site for environmental suitability and (2) verify that the ZOI is free of visually detectable marine mammals and potential marine mammal indicators. USAF range clearing vessels and protected species survey vessels will be on-site at least two hours prior to the mission. Vessel-based surveys will begin approximately one and one-half hours prior to live weapon deployment. Surveys will continue for approximately one hour or until the entire ZOI has been adequately surveyed, whichever comes first. At approximately 30 minutes prior to live weapon deployment, marine species observers will be instructed to leave the mission site and remain outside the safety zone, which on average will be 15 miles from the detonation point.

The duration of pre-mission surveys will depend on the area required to be surveyed and survey platforms (vessels versus aircraft). All marine mammal sightings including the species (if possible), number, location, and behavior of the animals will be documented on report forms that will be submitted to Eglin AFB after each mission. Missions will be postponed, relocated, or cancelled based on the presence of protected species within the survey areas.

Post-mission monitoring is designed to determine the effectiveness of pre-mission mitigation by reporting sightings of any dead or injured marine mammals. Post-detonation monitoring surveys will commence once the mission has ended or, if required, as soon as the mission area is declared safe. Vessels will move into the survey area from outside the safety zone and monitor for at least 30 minutes. The duration of post-mission surveys will vary based on survey platform. Similar to pre-mission surveys, all sightings would be properly documented on report forms and submitted to Eglin AFB. Any marine mammals that are detected in the ZOI during post-mission surveys and for which takes are authorized will be counted as Level B takes. Furthermore, any marine mammal observed in the ZOI for which take is not authorized will be reported immediately to the Office of Protected Resources, NMFS.

If any marine mammals are killed or injured as a result of the mission, Eglin AFB would be contacted immediately. Observers would document the species or description of the animal, location, and behavior and, if practicable, take pictures and maintain visual contact with the animal. Eglin AFB must notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8401), and the Southeast Regional Office immediately and await further instructions or the arrival of a response team on-site, if feasible. Activities shall cease and not resume until NMFS is able to review the circumstances of the prohibited take.

Mission Delay under Poor Sea State Conditions—Weather conducive to marine mammal monitoring is required to effectively conduct the pre- and post-mission surveys. Wind speed and the resulting surface conditions are critical factors affecting observation

effectiveness. Higher winds typically increase wave height and create ''whitecap'' conditions, both of which limit an observer's ability to locate marine species at or near the surface. Air-to-surface missions will be delayed or rescheduled if the sea state is greater than number 4 as listed in Table 21 at the time of the mission. Protected species observers or the Lead Biologist will make the final determination of whether or not conditions are conducive to sighting protected species.

TABLE 21—SEA STATE SCALE FOR EGTTR PRE-MISSION SURVEYS

Sea state No.	Sea conditions
0	Flat, calm, no waves or ripples.
1	Light air, winds 1–2 knots; wave height to 1 foot; ripples without crests.
2	Light breeze, winds 3–6 knots; wave height 1–2 feet; small wavelets, crests not breaking.
3	Gentle breeze, winds 7–10 knots; wave height 2–3.5 feet; large wavelets, scattered whitecaps.
4	Moderate breeze, winds 11–16 knots; wave height 3.5–6 feet; breaking crests, numerous whitecaps.

Visibility is also a critical factor for flight safety issues when aerial surveys are being conducted. Therefore, a minimum ceiling of 305 m (1,000 ft) and visibility of 5.6 km (3 nmi) is required to support monitoring efforts and flight safety concerns.

Determination of ZOI Survey Areas—The ZOI is defined as the area or volume of ocean in which marine mammals could be exposed to various pressure or acoustic energy levels caused by exploding ordnance. Each threshold range listed in Table 19 represents a radius of impact for a given threshold of each munition/detonation scenario. These ranges are used for determining the size of the area required to be monitored during pre-mission surveys for each activity. For any mission involving live munitions (other than gunnery rounds) an area extending out to the PTS harassment range for the corresponding mission-day scenario will be completely cleared of marine mammals prior to release of the first live ordnance. Depending on the mission-day scenario, the corresponding radius could be between 73 m for a live fuse surface detonation associated with mission-day scenario Q, and 1,039 m associated with mission-day scenario A. This would help ensure that no marine mammals will be within any of the Level A harassment or mortality zones during a live detonation event, significantly reducing the potential for these types of impacts to occur.

Some missions will be delayed to allow survey platforms to evacuate the human safety zone after pre-missions surveys are completed. For these delayed missions, Eglin proposes to include a buffer around the survey area that would extend to the TTS harassment zone for the corresponding mission-day scenario. This would double, and in some cases triple, the size of the survey area for the PTS zone. This buffer will mitigate for the potential that an animal outside the area during pre-mission surveys would enter the Level A harassment or mortality zones during a mission. However, missions that consist solely of gunnery testing and training operations will actually survey larger areas based on previously established safety profiles and the ability to conduct aerial surveys of large areas from mission aircraft. These ranges are shown in Table 22. Comparing the monitoring area below with behavioral harassment threshold radii for Atlantic spotted dolphins for mission-day categories D through H (between 0.4 km and 1.4 km (0.2 and 0.8 nmi)) shows that a much larger area will be covered by this monitoring procedure.

Mission Delay Associated with Animals in Zone of Influence—A mission delay of live ordnance mission activities will occur if a protected species, large schools of fish, or large flocks of birds feeding at the surface are observed within the Level B harassment ZOI. Mission activities cannot resume until one of the following conditions is met: (1) Marine mammal is confirmed to be outside of the ZOI on a heading away from the target area; (2) marine mammal is not seen again for 30 minutes and presumed to be outside the Level A ZOI; or (3) large groupings of fish or birds leading to required delay are confirmed outside the ZOI.

Mission Abort if Sperm or Baleen Whales Observed During Pre-mission Monitoring —Marine mammal species found in the Gulf of Mexico, including the Federally listed sperm whale and the Bryde's whale, which is proposed for ESA listing, occur with greater regularity in waters over and beyond the continental shelf break. To avoid impacts to the sperm whale, AFSOC has agreed to conduct all gunnery missions within (shoreward of) the 200-m isobath, which is considered to be the shelf break for purposes of this document. Furthermore, mission activities will be aborted/suspended for the remainder of the day if one or more sperm or baleen whales are detected during pre-mission monitoring activities as no takes of these species have been authorized. This measure will incidentally provide greater protection to several other species as well. Trained observers will also be instructed to be vigilant in ensuring Bryde's whales are not in the ZOI.

TABLE 22—MONITORING AREA RADII FOR GUNNERY MISSIONS

Aircraft	Gunnery round	Monitoring area	Monitoring altitude	Operational altitude
AC–130 gunship	25 mm, 30 mm, 40 mm, 105 mm (FU and TR).	5 nmi (9,260 m)	6,000 ft	15,000–20,000 ft.
CV–22 Osprey	.50 cal, 7.62 mm	3 nmi (5,556 m)	1,000 ft	1,000 ft.

cal = caliber; ft = feet; FU = full up; m = meters; mm = millimeter; nmi = nautical miles; TR = Training Round.

Mitigation Measures for Gunnery Actions—Eglin AFB has identified and required implementation of operational mitigation measures for gunnery missions, including development of the 105-mm TR, use of ramp-up procedures (explained below), re-initiation of species surveys if live fire activities are interrupted for more than 10 minutes, and eliminating missions conducted over waters beyond the continental shelf.

The largest type of ammunition used during gunnery missions is a 105-mm round, which contains 4.7 pounds of high explosive (HE). This is several times more HE than that found in the next largest round (40 mm). As a mitigation technique, the USAF developed a 105-mm TR that contains only 0.35 pounds of HE. The TR was developed to substantially reduce the risk of harassment during nighttime operations, when visual surveying for

marine mammals is of limited effectiveness (however, monitoring by use of the AC–130's instrumentation is effective at night).

Ramp-up procedures refer to the process of beginning with the least impactive action and proceeding to more impactive actions. In the case of gunnery activities, ramp-up procedures entail beginning a mission with the lowest caliber munition and proceeding to the highest, which means the munitions would be fired in the order of 25 mm, 40 mm, and 105 mm. The rationale for the procedure is that this process may allow marine species to perceive steadily increasing noise levels and to react, if necessary, before the noise reaches a threshold of significance.

If use of gunship weapons is interrupted for more than 10 minutes, Eglin AFB would be required to reinitiate applicable protected species surveys in the ZOI to ensure that no marine mammal species entered into the ZOI during that time.

The AC–130 gunship weapons are used in two phases. First, the guns are checked for functionality and calibrated. This step requires an abbreviated period of live fire. After the guns are determined ready for use, the aircraft deploys a flare onto the surface of the water as a target, and the mission proceeds under various test and training scenarios. This second phase involves a more extended period of live fire and can incorporate use of one or any combination of the munitions available (25-mm, 40-mm, and 105-mm rounds).

A ramp-up procedure will be required for the initial calibration phase and, after this phase, the guns may be fired in any order. Eglin AFB believes this process will allow marine species the opportunity to respond to increasing noise levels. If an animal leaves the area during ramp-up, it is unlikely to return during the live-fire mission. This protocol provides a more realistic training experience for aircrews. In combat situations, gunship crews would not necessarily fire the complete ammunition load of a given caliber gun before proceeding to another gun. Rather, a combination of guns might be used as required by real-time situations. An additional benefit of this protocol is that mechanical or ammunition problems with an individual gun can be resolved while live fire continues with functioning weapons. This diminishes the possibility of pause in live fire lasting 10 minutes or more, which would necessitate reinitiation of protected species surveys.

Based on our evaluation of Eglin AFB's planned measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, while also considering personnel safety, practicality of implementation, and the impact of effectiveness of the military readiness activity.

Monitoring and Reporting

In order to issue an incidental take authorization for an activity, Section 101(a)(5)(A) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The following monitoring options have been developed to support various types of air-to-surface mission activities that may be conducted in the EGTTR. Eglin AFB users covered by this LOA must meet specific test or training objectives and safety requirements and have different assets available to execute the pre- and post-mission surveys. The monitoring options and mitigation measures described in the subsections below balance all mission-essential parameters with measures that will support adequate protection to marine mammals. Monitors will search for any marine mammal, including species for which takes have been and have not been authorized. Monitors will be instructed to be extra vigilant in ensuring that species of concern, including the sperm whale (listed as endangered under the ESA) and Bryde's whale (proposed for listing under the ESA) are clear of the ZOI during testing and training activities.

Vessel-based Monitoring—Pre-mission surveys conducted from surface vessels will typically begin at sunrise. Trained observers will be aboard designated vessels to conduct protected species surveys before and after each mission. These vessels will be dedicated solely to monitoring for protected marine species and species indicators during the pre-mission surveys. For missions that require multiple vessels to conduct surveys based on the size of the survey area, a Lead Biologist will be designated to coordinate all survey efforts, compile sighting information from the other vessels, function as the point of contact between the survey vessels and Tower Control on Santa Rosa Island, and provide final recommendations to the Safety Officer/Test Director on the suitability of the mission site based on environmental conditions and survey results.

Survey vessels will run pre-determined line transects, or survey routes, that will provide sufficient coverage of the survey area. Monitoring activities will be conducted from the highest point feasible on the vessels. There will be at least two dedicated observers on each vessel, and they will utilize optical equipment with sufficient magnification to allow observation of surfaced animals.

All sighting information from pre-mission surveys will be communicated to the Lead Biologist on a pre-determined radio channel to reduce overall radio chatter and potential confusion. After compiling all the sighting information from the other survey vessels, the Lead Biologist will inform Tower Control on Santa Rosa Island on whether the area is clear of

protected species or not. If the range is not clear, the Lead Biologist will provide recommendations on whether the mission should be delayed or cancelled. For example, a mission delay would be recommended if a small number of protected species are in the ZOI but appear to be on a heading away from the mission area. The delay would continue until the Lead Biologist has confirmed that the animals are no longer in the ZOI and traveling away from the mission site. On the other hand, a mission cancellation could be recommended if one or more protected species in the ZOI are found and there is no indication that they would leave the area on their own within a reasonable timeframe. Tower Control on Santa Rosa Island will relay the Lead Biologist's recommendation to the Safety Officer. The Safety Officer and Test Director will collaborate regarding range conditions based on the information provided by the Lead Biologist and the status of range clearing vessels. The Safety Officer will have final authority on decisions regarding delays and cancellations of missions.

USAF Support Vessels—USAF support vessels will consist of a combination of USAF and civil service/civilian personnel responsible for mission site/target setup and range clearing activities. USAF personnel will be within the mission area (on boats and the GRATV) for each mission well in advance of weapon deployment, typically near sunrise. They will perform a variety of tasks including target preparation, equipment checks, etc., and will observe for marine mammals and indicators as feasible throughout test preparation. However, such observations are considered incidental and would only occur as time and schedule permits. Any sightings would be relayed to the Lead Biologist.

The Eglin Safety Officer, in cooperation with the Tower Control on Santa Rosa Island will coordinate and manage all range clearing efforts and be in direct communication with the survey vessel team, typically through the Lead Biologist. All support vessels will be in radio contact with one another and with Tower Control. The Safety Officer will monitor all radio communications, but Tower Control will relay messages between the vessels and the Safety Officer. The Safety Officer and Tower Control will also be in continual contact with the Test Director throughout the mission and will convey information regarding range clearing progress and protected species survey status. Final decisions regarding mission execution, including possible mission delay or cancellation based on protected species sightings or civilian boat traffic interference, will be the responsibility of the Safety Officer, with concurrence from the Test Director.

Aerial-based Monitoring—Aircraft typically provide an excellent viewing platform for detection of marine mammals at or near the surface. Depending on the mission, the aerial survey team will either consist of Eglin AFB personnel or their designees aboard a non-mission aircraft or the mission aircrew who have completed the Marine Species Observer Training. A description of each follows.

For non-mission aircraft, the pilot will be instructed in protected marine species survey techniques and will be familiar with marine species expected to occur in the area. One person in the aircraft will act as data recorder and is responsible for relaying the location, species (if possible), direction of movement, and number of animals sighted to the Lead Biologist. The aerial team will also identify protected species indicators such as large schools of fish and large, active groups of birds. Pilots will fly the aircraft in such a manner that the entire ZOI (and a buffer, if required) is monitored. Marine mammal sightings from the aerial survey team will be compiled by the Lead Biologist and communicated to the Test Director or Safety Officer. Similar to survey vessel requirements, all non-mission personnel will be required to exit the human safety zone before the mission can commence. As a result, the ZOI may not be monitored up to immediate deployment of live weapons. Due to this fact, the aerial team may be required to survey an additional buffer zone unless other monitoring assets, such as live video monitoring, can be employed.

Some mission aircraft have the capability to conduct aerial surveys immediately prior to releasing munitions. In those instances, aircrews that have completed the marine species observer training will make several passes over the target area to ensure the area is clear of all protected species. For mission aircraft in this category, aircrews will operate at reasonable and safe altitudes (dependent on the aircraft) appropriate to either visually scan the sea surface or utilize available instrumentation and sensors to detect protected species. Typical missions in this category are air-to-surface gunnery operations from AC–130 and CV–22 gunships. In some cases, other aerial platforms may be available to supplement monitoring activities for pre-mission surveys and during the missions.

Video-based Monitoring—Video-based monitoring may be accomplished via live high-definition video feed transmitted to CCF. Video monitoring typically facilitates data collection for the mission but can also allow remote viewing of the area for determination of environmental conditions and the presence of marine species up to the release time of live munitions. There are multiple sources of video that can be streamed to multiple monitors within CCF. When authorized for specific missions (*e.g.,* Maritime WSEP), a trained marine species observer from Eglin AFB will monitor all live video feed transmitted to CFF and will report any marine mammal sightings to the Safety Officer, who will also be at CCF. Employing this measure typically resolves any lapse between the time survey vessels or aircraft leave the safety zone after completing pre-mission surveys but before the mission actually begins.

The primary platform for video monitoring would be through the GRATV. Four video cameras are typically positioned on the GRATV (anchored on-site) to allow for real-time monitoring and data collection during the mission. The cameras will also be used to monitor for the presence of protected species. All cameras have a zoom capability of up to at least a 300-mm equivalent. At this setting, when targets are at a distance of 2 nmi from the GRATV, the field of view would be 195 ft by 146 ft. Video observers can detect an item with a minimum size of 1 square foot up to 4,000 m away. The GRATV will typically be located about 183 m (600 ft) from the target area; this range is well within the zooming capability of the video cameras.

Supplemental video monitoring can also be accomplished through the employment of additional aerial assets, when available. Eglin's aerostat balloon provides aerial imagery of weapon impacts and instrumentation relay. When utilized, it is tethered to a boat anchored near the GRATV but outside weapon impact areas. The balloon can be deployed to an altitude up to 2,000 ft above sea level. It is equipped with a high-definition camera system that is remotely controlled to pivot and focus on a specific target or location within the mission site. The video feed from the camera system is transmitted to CCF. Eglin may also employ other assets such as intelligence, surveillance, and reconnaissance aircraft to provide real-time imagery or relay targeting pod videos from mission aircraft. Unmanned aerial vehicles may also be employed to provide aerial video surveillance. While each of these platforms may not be available for all missions, they typically can be used in combination with each

other and with the GRATV cameras to supplement marine mammal monitoring efforts.

Even with a variety of platforms potentially available to supply video feeds to CCF, the entire ZOI may not be visible for the entire duration of the mission. However, the targets and immediately surrounding areas will typically be in the field of view of the GRATV cameras and the observer will be able to identify any protected species that may enter the target area before weapon releases. In addition, the observer will be able to determine if any animals were injured immediately following the detonations. Should a protected marine species be detected on the live video, the weapon release can be stopped almost immediately because the video camera observer is in direct contact with Test Director and Safety Officer at CCF.

Acoustic Monitoring—Eglin will conduct a NMFS-approved PAM study as an initial step towards understanding acoustic impacts from underwater detonations. During a live mission event, the Eglin AFB proposes to collect data that measures energy and pressure levels from varying distances away from weapon impact points. The data would likely be recorded by hydrophones attached to buoys that are deployed just before the mission. After mission activities, the buoys would be collected, then the data would be downloaded and analyzed. The results would be compared to the various ranges to effects for Level A and Level B Harassment that were calculated with the acoustic model. Eglin will also conduct PAM for marine mammal vocalizations before, during, and after live missions in the EGTTR. Once funding for these efforts is secured, Eglin AFB will work closely with NMFS to develop a research plan that will meet mutually agreeable objectives.

As previously described in the response to Comment #2, Eglin AFB and NMFS have discussed the possibility of employing PAM as a required mitigation measure during EGTTR activities. However, human safety concerns and the inability to make mission go/no-go decisions in a timely manner are the most immediate obstacles for Eglin AFB implementing real-time PAM during live weapon missions in the EGTTR.

As noted previously, Eglin's current boat and aerial pre- and post-mission visual surveys have been successful in preventing impacts to marine mammals because no unauthorized takes have occurred as a result of these procedures under previous incidental take authorizations. Until Eglin AFB is confident that this first step toward a rudimentary PAM study is successfully implemented, the USAF cannot commit to PAM as a mitigation measure, which would add multiple layers of complexities required to detect and localize marine mammals during a live mission event. Furthermore, Eglin would need to gain better understanding of PAM capabilities so mission-appropriate procedures could be developed for making go/no-go decisions in a timely manner. Given the level of success with current mitigation procedures and the high level of unknowns associated with implementing PAM as part of mitigation procedures for USAF activities, Eglin AFB and NMFS agreed that using PAM as a real-time mitigation measure is not practicable at this time.

AC–130 and CV–22 Gunship Procedures—After arriving at the mission site and prior to initiating firing events, gunships will conduct at least two complete orbits around the survey area at a minimum safe airspeed around the mission site at the appropriate monitoring altitude. Provided that marine mammals (and other protected species or indicators) are not detected, the aircraft will then begin the ascent to operational altitude, continuing to orbit the target area as it climbs. The initial orbits occur over a timeframe of approximately 10 to 15 minutes. Monitoring for marine mammals, vessels, and other objects will continue throughout the mission. If a towed target is used, mission personnel will ensure that the target remains in the center portion of the survey area to ensure gunnery impacts do not extend past the ZOI.

During the low-altitude orbits and climb, the aircrew will visually scan the sea surface within the aircraft's orbit circle for the presence of marine mammals. The surface scan will primarily be conducted by the flight crew in the cockpit and personnel stationed in the tail observer bubble and starboard viewing window. During nighttime missions, crews will use night vision goggles during observation. In addition to visual surveys, aircraft optical and electronic sensors will also be used for site clearance. AC–130 gunships are equipped with low-light TV cameras and infrared detection sets (IDSs). The TV cameras operate in a range of visible and near-visible light. Infrared systems are capable of detecting differences in temperature from thermal energy (heat) radiated from living bodies or from reflected and scattered thermal energy. In contrast to typical night-vision devices, visible light is not necessary for object detection. Infrared systems are equally effective during day or night use. The IDS is capable of detecting very small thermal differences. CV–22 aircraft have similar visual scanners and operable sensors; however, they operate at much lower altitudes than the AC–130 gunships, and no HE rounds will be fired from these aircraft.

If any marine mammals are detected during pre-mission surveys or during the mission, activities will be immediately halted until the ZOI area is clear of all marine mammals, or the mission will be relocated to another target area. If the mission is relocated, the pre-mission survey procedures will be repeated. In addition, if multiple firing missions are conducted within the same flight, clearance procedures will precede each mission.

Gunship crews will conduct a post-mission survey beginning at the operational altitude and proceeding through a spiraling descent to the designated monitoring altitude. It is anticipated that the descent will occur over a three- to five-minute time period. During this time, aircrews will use similar equipment and instrumentation to scan the water surface for animals that may have been impacted during the gunnery mission. During daytime missions, visual scans will be used as well.

Coordination with Eglin Natural Resources Office—Prior to conducting live missions, proponents will coordinate with Eglin Natural Resources to be briefed on their mitigation and monitoring requirements. Throughout coordination efforts, mission assets available for monitoring will be identified and an implementation plan will be developed. Based on the assets, survey routes will be designed to incorporate the size of the monitoring area and determine whether a buffer will be required. Training and reporting requirements will also be communicated to the proponents

The following table lists known proponents and the monitoring platforms that may be employed for marine mammal monitoring before, during, and after live air-to-surface missions. As stated above, coordination with proponents before live missions will ensure these options are still available, as well as any changes to assets or mission capabilities for new proponents that would fall under this authorization. Eglin Natural Resources will ensure all practical measures will be implemented to the maximum extent possible to comply with the mitigation and monitoring requirements while meeting mission objectives.

TABLE 23—MONITORING OPTIONS AVAILABLE FOR LIVE AIR-TO-SURFACE MISSION PROPONENTS OPERATING IN THE EGTTR

Mission	Monitoring platform		
	Vessel	Aerial	Video
86 FWS Maritime Weapons System Evaluation Program (WSEP)	•		•
USAF Special Operations Command (AFSOC) Training			
Air-to-Surface Gunnery		•	
Small Diameter Bomb/Griffin Missile Training		•	
CV–22 Training		•	
413th Flight Test Squadron (FLTS)			
AC–130J Precision Strike Package Testing		•	•
AC–130J Stand-Off Precision Guided Munitions Testing		•	•
780th Test Squadron			
Precision Strike Weapon	•	•	•
Longbow Littoral Testing	•		•

Monitoring and Reporting Measures

In addition to monitoring for marine species before and after missions, the following monitoring and reporting measures will be required.

• Within a year before the planned missions, all protected species observers will receive the Marine Species Observer Training Course developed by Eglin in cooperation with NMFS.

• Eglin AFB will track use of the EGTTR and protected species observation results through the use of protected species observer report forms.

• A summary annual report of marine mammal observations and mission activities will be submitted to the NMFS Southeast Regional Office and the NMFS Office of Protected Resources 90 days after completion of mission activities each year or 60 days prior to the issuance of any subsequent LOA for projects at the EGTTR, whichever comes first. A final report shall be prepared and submitted within 30 days following resolution of comments on the draft annual reports from NMFS. This annual report must include the following information:

○ Date and time of each mission.

○ A complete description of the pre-mission and post-mission activities related to mitigating and monitoring the effects of mission activities on marine mammal populations.

○ Results of the visual monitoring, including numbers by species/stock of any marine mammals noted injured or killed as a result of the missions, and number of marine mammals (by species if possible) that may have been harassed due to presence within the activity zone.

○ If any dead or injured marine mammals are observed or detected prior to mission activities, or injured or killed during mission activities, a report must be made to the NMFS Southeast Region Marine Mammal Stranding Network at 877–433–8299, the Chief of the Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and the Florida Marine Mammal Stranding Hotline at 888–404–3922 immediately.

○ Any unauthorized impacts on marine mammals must be immediately reported to the National Marine Fisheries Service's Southeast Regional Administrator, at 727–842–5312, and the Chief of the Permits and Conservation Division, Office of Protected Resources, at 301–427–8401.

Adaptive Management

NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Eglin AFB regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring measures for these regulations.

Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include: (1) Results from Eglin AFB's acoustic monitoring study; (2) results from monitoring during previous year(s); (3) results from other marine mammal and/or sound research or studies; and (4) any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment. If, however, NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals in the Gulf of Mexico, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989

preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analyses applies to bottlenose dolphins and Atlantic spotted dolphins, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of these two species or stocks that would lead to a different analysis for this activity.

For reasons stated previously in this document and based on the following factors, Eglin AFB's specified activities are not likely to cause long-term behavioral disturbance, serious injury, or death. Because the exposure model was conservative and calculated a single bottlenose dolphin death, along with the fact that the required mitigation and monitoring measures were not incorporated into the model, NMFS does not anticipate or propose to authorize any take by mortality. The takes from Level B harassment would be due to disturbance of normal behavioral patterns and TTS, as duration of exposure is relatively short. The potential takes from Level A harassment would be due to PTS and slight lung injury (not gastrointestinal tract injury).

NMFS has determined that direct strike by ordnance is highly unlikely. Although strike from a munition at the surface of the water while the animals are at the surface is possible, the potential risk of a direct hit to an animal within the target area would be low. The USAF (2002 PEA) estimated that in the absence of mitigation a maximum of 0.2 marine mammals could potentially be struck by projectiles, falling debris, and inert munitions each year.

Disruption of normal behavioral patterns constituting Level B harassment would be limited to reactions such as startle responses, movements away from the area, and short-term changes to behavioral state. These impacts are expected to be temporary and of limited duration due to the likely avoidance of the action area by marine mammals, short period of individual explosions themselves (versus continual sound source operation), and relatively short duration of the EGTTR operations (*i.e.* ranging from a few minutes to no more than four hours per day depending on the mission category).

Level B harassment in the form of TTS was modeled to occur in both species for which take is authorized. If TTS occurs, it is expected to be at low levels and of short duration. As explained previously, TTS is temporary with no long-term effects to species. The modeled take numbers are expected to be overestimates because NMFS expects that successful implementation of the required aerial-based, vessel-based and video-based mitigation measures could avoid TTS. Furthermore, monitoring results from previous incidental take authorizations have demonstrated that it is uncommon to sight marine mammals within the ZOI, especially for prolonged durations. Results from monitoring programs associated with Eglin AFB's 2015 and 2016 Maritime WSEP activities have shown the absence of marine mammals within the ZOI during operations.

NMFS expects that successful implementation of the required aerial-based, vessel-based and video-based mitigation measures would avoid or reduce take by Level A harassment in some instances. Marine mammals would likely begin to move away from the immediate target area once bombing begins, decreasing exposure to the full amount of acoustic energy. There have also been no marine mammal observations in the ZOI according to monitoring reports from previous years. Therefore, we anticipate that, because of the mitigation measures, low observation rate of marine mammals in the target area, and the likely limited duration of exposures, any PTS incurred would be in the form of only a small degree of PTS, rather than total deafness.

Other than for mortality, the take numbers authorized by NMFS do not consider mitigation or avoidance. Therefore, NMFS expects that Level A harassment is unlikely to occur at the authorized numbers. However, since it is difficult to quantify the degree to which the mitigation and avoidance will reduce the number of animals that might incur Level A harassment (*i.e.* PTS, slight lung injury), NMFS proposes to authorize take by Level A harassment at the numbers derived from the exposure model and has included that potential amount of take in our analysis. Moreover, the mitigation and monitoring measures required under the Authorization (described earlier in this document) are expected to further minimize the potential for both Level A and Level B harassment.

Impacts to habitat are not anticipated. Noise and pressure waves resulting from live weapon detonations are not likely to result in long-term physical alterations of the water column or ocean floor. These effects are not expected to substantially affect prey availability, are of limited duration, and are intermittent. Impacts to marine fish were analyzed in the *Eglin Gulf Test and Training Range Environmental Assessment* (Department of the Air Force, 2015). In the EA, it was determined that fish populations were unlikely to be affected and prey availability for marine mammals would not be impaired. Other factors related to EGTTR activities that could potentially affect marine mammal habitat include the introduction of metals, explosives and explosion by-products, other chemical materials, and debris into the water column and substrate due to the use of munitions and target vessels. However, the effects of each were analyzed in the EA and were determined to not be significant.

While animals may be impacted in the immediate vicinity of the target area, because of the short duration of the actual individual explosions themselves (versus continual sound source operation) combined with the relatively short duration of daily operations (*i.e.* ranging from a few minutes to no more than four hours per day depending on the mission category), NMFS has determined that there will not be a substantial impact on marine mammals or their habitat in Gulf of Mexico ecosystems in the EGTTR. We do not expect that the planned activity would impact rates of recruitment or survival of marine mammals since we do not expect mortality (which would remove individuals from the population) or serious injury to occur. In addition, the activity will not occur in areas (and/or times) of significance for the marine mammal populations potentially affected by the exercises (*e.g.,* feeding, resting, or reproductive areas), and the activities will only occur in a small part of their overall range, so the impact of any potential temporary displacement would be negligible and animals would be expected to return to the area after the cessations of activities. Although the planned activity could result in Level A (PTS and slight lung injury) and Level B (behavioral disturbance and TTS of lesser degree and shorter duration) harassment of marine mammals, the level of harassment is not anticipated to impact rates of recruitment or survival of marine mammals because the number of exposed animals is expected to be low due to the relatively short-term and site-specific nature of the activity. Furthermore, we do not anticipate that

the effects would be detrimental to rates of recruitment and survival because we do not expect serious extended behavioral responses that would result in energetic effects at the level to impact fitness or physiological impacts of a nature that would impede reproduction or survival.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized and only 11 instances of Level A harassment are authorized. Remaining impacts would be within the non-injurious TTS or behavioral effects zones (Level B harassment consisting of generally temporary modifications in behavior);
- Effectiveness of mitigation and monitoring requirements which are designed and expected to avoid exposures that may cause serious injury and minimize the likelihood of PTS, TTS, or more severe behavioral responses;
- Adverse impacts to habitat are not expected; and
- Results from previous monitoring reports did not record any marine mammal takes associated with military readiness activities occurring in the EGTTR.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. No incidental take of ESA-listed marine mammal species is authorized or expected to result from the proposed activities. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Classification

The Office of Management and Budget has determined that this final rule is not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. Eglin AFB is the sole entity that would be affected by this rulemaking, and Eglin AFB is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because this action directly affects Eglin AFB and not a small entity, NMFS concluded the action will not result in a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

The Assistant Administrator for Fisheries has determined that there is good cause under the Administrative Procedure Act to waive the 30-day delay in the effective date (5 U.S.C. 553(d)(3)) of the measures contained in the final rule. The USAF is the only entity subject to the regulations, and it has informed NMFS that it requests that this final rule take effect by February 13, 2018, to accommodate a USAF testing and training exercise planned for that day in the EGTTR. Any delay of enacting the final rule would result in either: (1) A suspension of planned naval training, which would disrupt vital training essential to national security; or (2) the USAF's procedural non-compliance with the MMPA (should the USAF conduct testing and training without an LOA), thereby resulting in the potential for unauthorized takes of marine mammals. Moreover, the USAF is ready to implement the rule immediately. For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay in the effective date.

List of Subjects in 50 CFR Part 218

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: February 5, 2018.

Samuel D. Rauch III,

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

For reasons set forth in the preamble, 50 CFR part 218 is amended as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 218 is revised to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Add subpart G to part 218 to read as follows:

Subpart G—Taking of Marine Mammals Incidental to Testing and Training Activities Conducted at the Eglin Gulf Test and Training Range in the Gulf of Mexico

Sec.
218.60 Specified activity and specified geographical region.
218.61 Effective dates.
218.62 Permissible methods of taking.
218.63 Prohibitions.
218.64 Mitigation requirements.
218.65 Requirements for monitoring and reporting.
218.66 Letters of Authorization.
218.67 Renewals and modifications of Letters of Authorization.
218.68–218.69 [Reserved]

Subpart G—Taking of Marine Mammals Incidental to Testing and Training Activities Conducted at the Eglin Gulf Test and Training Range in the Gulf of Mexico

§ 218.60 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Eglin Air Force Base (Eglin AFB) and those persons it authorizes to conduct activities on its behalf, for the taking of marine mammals as outlined in paragraph (b) of this section and incidental to testing and training missions in the Eglin Gulf Test and Training Range (EGTTR).

(b) The taking of marine mammals by Eglin AFB pursuant to a Letter of Authorization (LOA) is authorized only if it occurs at the EGTTR in the Gulf of Mexico.

§ 218.61 Effective dates.

Regulations in this subpart are effective February 13, 2018 through February 12, 2023.

§ 218.62 Permissible methods of taking.

Under a Letter of Authorization (LOA) issued pursuant to § 216.106 of this chapter and § 218.66, the Holder of the LOA (herein after Eglin AFB) may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment associated with EGTTR activities within the area described in § 218.60 provided the activities are in compliance with all terms, conditions, and requirements of these regulations in this subpart and the appropriate LOA.

§ 218.63 Prohibitions.

Notwithstanding takings contemplated in § 218.60 and authorized by an LOA issued under § 216.106 of this chapter and § 218.66, no person in connection with the activities described in § 218.60 may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under § 216.106 of this chapter and § 218.66.

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs in any manner other than as specified;

(d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

§ 218.64 Mitigation requirements.

When conducting activities identified in § 218.60, the mitigation measures contained in the LOA issued under § 216.106 of this chapter and § 218.66 must be implemented. These mitigation measures shall include but are not limited to the following general conditions:

(a) If daytime weather and/or sea conditions preclude adequate monitoring for detecting marine mammals and other marine life, EGTTR operations must be delayed until adequate sea conditions exist for monitoring to be undertaken.

(b) Restrictions on time of activities.

(1) Missions involving the use of live bombs, missiles and rockets shall only occur during daylight hours.

(2) Missions during daylight hours shall occur no earlier than two hours after sunrise and no later than two hours prior to sunset.

(c) Required delay of live ordnance mission activities shall occur if a protected species, large schools of fish or large flocks of birds feeding at the surface are observed within the ZOI. Mission activities cannot resume until one of the following conditions is met:

(1) Protected species marine mammal(s) is confirmed to be outside of the ZOI on a heading away from the target area; or

(2) Protected species marine mammal(s) is not seen again for 30 minutes and presumed to be outside the Level A harassment ZOI.

(3) Large groupings of fish or birds leading to required delay are confirmed outside of the ZOI.

(d) Gunnery operations shall require employment of the following mitigation measures.

(1) Use of 105-millimeter (mm) training rounds (TR) during nighttime missions.

(2) Ramp-up procedures requiring the use of the lowest caliber munition and proceeding to the highest, which means the munitions would be fired in the order of 25 mm, 40 mm, and 105 mm.

(3) Any pause in live fire activities greater than 10 minutes shall require reinitiation of protected species surveys.

(4) Missions shall be conducted within the 200-meter (m) isobaths to provide greater protection to several species.

(e) If one or more sperm or baleen whales are detected during pre-mission monitoring activities, mission activities shall be aborted/suspended for the remainder of the day.

(f) Additional mitigation measures as contained in an LOA.

§ 218.65 Requirements for monitoring and reporting.

(a) Holders of LOAs issued pursuant to § 218.66 for activities described in § 218.60(a) are required to cooperate with NMFS, and any other Federal, state, or local agency with authority to monitor the impacts of the activity on marine mammals. If the authorized activity identified in § 218.60(a) is thought to have resulted in the mortality or injury of any marine mammals or take of marine mammals not identified in § 218.60(b), then the Holder of the LOA must notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301) 427–8401, and the Southeast Regional Office (phone within 24 hours of the injury or death).

(b) Monitoring shall be conducted by personnel who have completed Eglin's Marine Species Observer Training Course, which was developed in cooperation with the National Marine Fisheries Service.

(c) The Holder of the LOA shall use mission-reporting forms to track their use of the EGTTR for testing and training missions and to track marine mammal observations.

(d) Depending on the mission category, visual aerial-based, vessel-based, or video-based marine mammal surveys shall be conducted before and after live ordnance mission activities each day.

(e) Vessel-based surveys shall begin approximately one and one-half hour prior to live weapon deployment and shall be completed 30 minutes prior to the start of mission.

(f) Surveys shall continue for approximately one hour or until the entire ZOI has been adequately surveyed, whichever comes first.

(g) Post-mission monitoring surveys shall commence once the mission has ended or as soon as the mission area is declared safe.

(h) Vessel-based post-mission surveys shall be conducted for 30 minutes after completion of live ordnance missions.

(i) Any marine mammals detected in the ZOI during post-mission surveys, for which take are authorized, shall be counted as takes by Level B harassment. Any marine mammals detected in the ZOI during post-mission surveys, for which take is not authorized, shall be reported immediately to the Office of Protected Resources, NMFS.

(j) A minimum of two dedicated observers shall be stationed on each vessel.

(k) Observers shall utilize optical equipment with sufficient magnification to allow observation of surfaced animals.

(l) The size of the survey area for each mission shall be determined according to the radius of impact for the given threshold of each munition/detonation scenario. These ranges shall be monitored during pre-mission surveys for each activity.

(m) Some missions shall be delayed to allow survey platforms to evacuate the human safety zone after pre-missions surveys are completed.

(n) Any aerial-based pre-mission surveys shall be conducted by observers aboard non-mission aircraft or mission aircraft who have completed the Marine Species Observer Training.

(o) Gunship standard procedures initiated prior to initiation of live-firing events shall require at least two complete orbits around the survey mission site at the appropriate airspeed and monitoring altitude and include the following:

(1) Monitoring for marine mammals shall continue throughout the mission by mission crew;

(2) Where applicable aircraft optical and electronic sensors shall be used for marine mammal observation;

(3) If any marine mammals are detected during pre-mission surveys or during the mission, activities shall be immediately halted until the ZOI area is clear of all marine mammals, or the mission shall be relocated to another target area. If the mission is relocated, the pre-mission survey procedures shall be repeated;

(4) If multiple firing missions are conducted within the same flight, standard clearance procedures shall precede each mission; and

(5) Gunship crews shall conduct a post-mission survey beginning at the operational altitude and proceeding through a spiraling descent to the designated monitoring altitude.

(p) Video-based monitoring from the GRATV shall be conducted where appropriate via live high-definition video feed.

(1) Supplemental video monitoring shall be conducted through the employment of additional aerial assets including aerostats and drones when available.

(2) [Reserved]

(q) Acoustic Monitoring:

(1) Eglin AFB shall conduct a passive acoustic monitoring (PAM) study as an initial step towards understanding acoustic impacts from underwater detonations, if funding is approved;

(2) Eglin AFB shall conduct PAM for marine mammal vocalizations before, during, and after live missions in the EGTTR, once funding is approved; and

(3) The results of the PAM study shall be submitted to NMFS OPR as a draft monitoring report within 90 days of completion of the study.

(r) The Holder of the LOA is required to:

(1) Submit an annual draft report to NMFS OPR on all monitoring conducted under the LOA within 90 days of the completion of marine mammal monitoring, or 60 days prior to the issuance of any subsequent LOA for projects at the EGTTR, whichever comes first. A final report shall be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. This report must contain, at a minimum, the following information:

(i) Date and time of each EGTTR mission;

(ii) A complete description of the pre-mission and post-mission activities related to mitigating and monitoring the effects of EGTTR missions on marine mammal populations; and

(iii) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the EGTTR mission and number of marine mammals (by species if possible) that may have been harassed due to presence within the zone of influence.

(2) The draft report shall be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. The draft report shall be considered the final report for this activity under the LOA if NMFS has not provided comments and recommendations within 90 days of receipt of the draft report.

(s) Reporting injured or dead marine mammals:

(1) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the LOA, such as an injury for species not authorized (Level A harassment), serious injury, or mortality, Eglin AFB shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Southeast Regional Office, NMFS. The report must include the following information:

(i) Time and date of the incident;

(ii) Description of the incident;

(iii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Fate of the animal(s); and

(vii) Photographs or video footage of the animal(s).

(2) Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Eglin AFB to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Eglin AFB may not resume their activities in the EGTTR until notified by NMFS.

(3) In the event that Eglin AFB discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Eglin AFB shall immediately report the incident to the Office of Protected Resources, NMFS, and the Southeast Regional Office, NMFS. The report must include the same information identified in paragraph (p)(1) of this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS shall work with Eglin AFB to determine whether additional mitigation measures or modifications to the activities are appropriate.

(4) In the event that Eglin AFB discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the LOA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Eglin AFB shall report the incident to the Office of Protected Resources, NMFS, and the Southeast Regional Office, NMFS, within 24 hours of the discovery. Eglin AFB shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

(5) Additional Conditions:

(i) The Holder of the LOA must inform the Director, Office of Protected Resources, NMFS, (301–427–8401) or designee prior to the initiation of any changes to the monitoring plan for a specified mission activity.

(ii) A copy of the LOA must be in the possession of the safety officer on duty each day that EGTTR missions are conducted.

(iii) The LOA may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

§ 218.66 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, Eglin AFB must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, Eglin AFB must apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, Eglin AFB must apply for and obtain a modification of the LOA as described in § 218.67.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Number of marine mammals, by species and age class, authorized to be taken;

(3) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species of marine mammals authorized for taking, on its habitat, and on the availability of the species for subsistence uses; and

(4) Requirements for monitoring and reporting.

(f) Issuance of an LOA shall be based on a determination that the level of taking shall be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 218.67 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 218.66 for the activity identified in § 218.60(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal request by the applicant that includes changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of authorized takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under § 216.106 of this chapter and § 218.66 for the activity identified in § 218.60(a) may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Eglin AFB regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(2) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA are:

(i) Results from Eglin AFB's annual monitoring reports;

(ii) Results from other marine mammal and sound research or studies; or

(iii) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(3) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(4) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified under LOAs issued pursuant to § 216.106 of this chapter and § 218.60, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

§§ 218.68–218.69 [Reserved]

[FR Doc. 2018–02511 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363–7275–02]

RIN 0648–XG009

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Commercial Trip Limit Increase in the Atlantic Southern Zone

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

ACTION: Temporary rule; trip limit increase.

SUMMARY: NMFS increases the commercial trip limit for king mackerel in or from Federal waters in an area off the Florida east coast between the border of Flagler and Volusia Counties and the border of Miami-Dade and Monroe Counties in the Atlantic southern zone to 75 fish per day. This commercial trip limit increase is necessary to maximize the socioeconomic benefits associated with harvesting the commercial quota of Atlantic migratory group king mackerel.

DATES: This temporary rule is effective from 12:01 a.m., local time, February 5, 2018, through February 28, 2018.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for Atlantic king mackerel below apply as either round or gutted weight.

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the **Federal Register** (82 FR 17387). That final rule adjusted the management boundaries, zones, and annual catch limits for Atlantic migratory group king mackerel (Atlantic king mackerel). The commercial quota for Atlantic king mackerel in the southern zone is 4,540,640 lb (2,059,600 kg) for the current fishing year, March 1, 2017, through February 28, 2018 (50 CFR 622.384(b)(2)(ii)).

The Atlantic king mackerel southern zone encompasses an area of Federal waters south of a line extending from the state border of North Carolina and South Carolina, as specified in 50 CFR 622.2, and north of a line extending due east from the border of Miami-Dade and Monroe Counties, Florida (50 CFR 622.369(a)(2)(ii)). From October 1 through January 31, the commercial trip limit for king mackerel in or from the southern zone that may be possessed on board or landed from a federally permitted vessel is 50 fish per day (50 CFR 622.385(a)(2)(i)(A)).

However, if NMFS determines that less than 70 percent of the Atlantic southern zone commercial quota has been harvested by February 1, then during the month of February, the commercial trip limit for king mackerel in or from a specified area of the southern zone that may be possessed on board or landed from a federally permitted vessel is increased to 75 fish per day (50 CFR 622.385(a)(1)(ii)(D)). The area of the southern zone in which the commercial trip limit increase applies is in Federal waters south of 29°25′ N lat., which is a line that extends due east from the border of Flagler and Volusia Counties, Florida, and north of 25°20′24″ N lat., which is

a line that extends due east from the border of Miami-Dade and Monroe Counties, Florida.

NMFS has determined that less than 70 percent of the commercial quota for Atlantic king mackerel in the southern zone was harvested by February 1, 2018. Accordingly, a 75-fish commercial trip limit applies to vessels fishing for king mackerel in or from Federal waters south of 29°25′ N lat. and north of 25°20′24″ N lat. off the east coast of Florida in the Atlantic southern zone effective at 12:01 a.m., local time, February 5, 2018. The 75-fish trip limit will remain in effect through February 28, 2018, or until the commercial quota is reached and the southern zone closes. On March 1, 2018, the new fishing year begins and a commercial trip limit of 50 fish will again be in effect for this area.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.385(a)(1)(ii)(D) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this commercial trip limit increase constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the commercial trip limits has already been subject to notice and comment, and all that remains is to notify the public of the trip limit increase. Such procedures are contrary to the public interest, because prior notice and opportunity for public comment would require time and delay the fishers' ability to catch more king mackerel to harvest the commercial quota and achieve optimum yield, and would prevent fishers from reaping the socioeconomic benefits associated with this increased commercial trip limit.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action, pursuant to 5 U.S.C. 553(d)(3).

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

Dated: February 5, 2018.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–02544 Filed 2–5–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 27
Thursday, February 8, 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 AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Docket No. FCIC–17–0005]

RIN 0563–AC54

General Administrative Regulations; Subpart L—Reinsurance Agreement—Standards for Approval; Regulations for the 2019 and Subsequent Reinsurance Years

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise the General Administrative Regulations; Subpart L—Reinsurance Agreement—Standards for Approval; Regulations for the 2019 and Subsequent Reinsurance Years. The intended effect of this action is to clarify and improve Subpart L to better align with the existing Standard Reinsurance Agreement (SRA) and Livestock Price Reinsurance Agreement (LPRA) and to eliminate language that is no longer relevant.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business April 9, 2018 and will be considered when the rule is made final.

ADDRESSES: FCIC prefers that comments be submitted electronically through the Federal eRulemaking Portal. You may submit comments, identified by Docket ID No. FCIC–17–0005, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *By Mail to:* Director, Reinsurance Services Division, Federal Crop Insurance Corporation, United States Department of Agriculture (USDA), 1400 Independence Avenue SW, Stop 0801, Washington, DC 20250.

All comments received, including those received by mail, will be posted without change to *http://www.regulations.gov,* including any personal information provided, and can be accessed by the public. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see *http://www.regulations.gov.* If you are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, we ask that it be in a text-based format. If you want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of your submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the RMA Web Content Team at (816)823–4694 or by email at *rmaweb.content@rma.usda.gov.*

PRIVACY ACT: Anyone is able to search the electronic form of all comments received for any dockets by the name of the person submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the complete User Notice and Privacy Notice for *Regulations.gov* at *http://www.regulations.gov/#!privacyNotice.*

FOR FURTHER INFORMATION CONTACT: David L. Miller, Director, Reinsurance Services Division, Federal Crop Insurance Corporation, United States Department of Agriculture (USDA), 1400 Independence Avenue SW, Stop 0801, Washington, DC 20250, telephone (202) 720–9830.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866, 13563, and 13771

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 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 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has not reviewed this rule. The rule is not subject to Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.''

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0069.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 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.

FCIC has assessed the impact of this rule on Indian tribes and determined that this rule does not, to its knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, FCIC 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.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act (Act) authorizes FCIC to waive collection of administrative fees from beginning farmers or ranchers and limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of Federal crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605). This regulation pertains to all legal entities wanting a Reinsurance Agreement, to insure financial stability and capacity under this regulation.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. Interpretations of statutory and regulatory provisions are matters of general applicability and, therefore, no administrative appeals process is available and judicial review may only be brought to challenge the interpretation after seeking a determination of appeal ability by the Director of the National Appeals Division (NAD) in accordance with 7 CFR part 11. An interpretation of a policy provision not codified in the Code of Federal Regulations or any procedure used in the administration of any Federal crop insurance program are administratively appealable and the appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought against FCIC.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure, Crop insurance, Reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, FCIC proposes to amend 7 CFR part 400 to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Revise Subpart L to read as follows:

Subpart L—Reinsurance Agreement—Standards for Approval; Regulations for the 2019 and Subsequent Reinsurance Years

Sec.
400.161 Definitions.
400.162 Qualification ratios.
400.163 Applicability.
400.164 Eligibility for a Reinsurance Agreement.
400.165 [Reserved]
400.166 [Reserved]
400.167 [Reserved]
400.168 [Reserved]
400.169 Disputes.
400.170 [Reserved]
400.171 [Reserved]
400.172 [Reserved]
400.173 [Reserved]
400.174 [Reserved]
400.175 [Reserved]
400.176 [Reserved]
400.177 [Reserved]

§ 400.161 Definitions.

In addition to the terms defined in the Standard Reinsurance Agreement, Livestock Price Reinsurance Agreement and any other Reinsurance Agreement, the following terms as used in this rule are defined to mean:

Annual statutory financial statement means the annual financial statement of a Company prepared in accordance with Statutory Accounting Principles and submitted to the state insurance department if required by any state in which the Company is licensed.

Company means the insurance company that currently has or is applying to FCIC for a Reinsurance Agreement.

FCIC means the Federal Crop Insurance Corporation as authorized in section 503 of the Federal Crop Insurance Act (7 U.S.C. 1503).

MPUL means the maximum possible underwriting loss that a Company can sustain on policies it intends to reinsure after adjusting for the effect of any Reinsurance Agreement and any private reinsurance, as evaluated by FCIC.

Plan of operation means the documentation and information submitted by a Company to apply for or maintain a Reinsurance Agreement as required by FCIC.

Quarterly Statutory Financial Statement means the quarterly financial statement of a Company prepared in accordance with Statutory Accounting Principles and submitted to the state insurance department if required by any state in which the Company is licensed.

Reinsurance Agreement means the Standard Reinsurance Agreement, Livestock Price Reinsurance Agreement and any other Reinsurance Agreement between the Company and FCIC.

§ 400.162 Qualification ratios.

(a) The eighteen qualification ratios include:

(1) Thirteen National Association of Insurance Commissioner's (NAIC's) Insurance Regulatory Information System (IRIS) ratios found in subsections (b)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (17) of this section and referenced in ''Using the NAIC Insurance Regulatory Information System'' distributed by NAIC, 1100 Walnut St., Suite 1500, Kansas City, MO 64106–2197;

(2) Three ratios used by A.M. Best Company found in subsections (b)(13), (15), and (16) of this section and referenced in Best's Key Rating Guide, A.M. Best, Ambest Road, Oldwick, N.J. 08858–0700;

(3) One ratio found in paragraph (b)(14) of this section which is formulated by FCIC and is calculated the same as the One-Year Change to Surplus IRIS ratio but for a two-year period; and

(4) One ratio found in paragraph (b)(18) of this section, which is reported on the annual statutory financial statement.

(b) The Company shall provide an explanation for any ratio falling outside of the requirements stated below.

Ratio	Ratio requirement
(1) Gross Premium Written to Policyholders Surplus	<900%
(2) Net Premium Written to Policyholders Surplus	<300%
(3) Change in Net Premiums Writings	−33% to 33%
(4) Surplus Aid to Policyholders Surplus	<15%
(5) Two-Year Overall Operating Ratio	<100%
(6) Change in Policyholders Surplus	−10% to 50%
(7) Investment Yield	3.0% to 6.5%
(8) Liabilities to Liquid Assets	<100%
(9) Gross Agents Balances to Policyholders Surplus	<40%
(10) One Year Reserve Development to Policyholders Surplus	<20%
(11) Two Year Reserve Development to Policyholders Surplus	<20%
(12) Estimated Current Reserve Deficiency to Policyholders Surplus	<25%
(13) Combined Ratio after Policyholder Dividend	<115%
(14) Two Year Change in Surplus	>−10%
(15) Quick Liquidity	>20%
(16) Return on Surplus	>−5%
(17) Net Change in Adjusted Policyholder Surplus	−10% to 25%
(18) Risk Based Capital Ratio	>200%

§ 400.163 Applicability.

The standards contained herein shall be applicable to a Company applying for and those maintaining a Reinsurance Agreement.

§ 400.164 Eligibility for a Reinsurance Agreement.

FCIC will offer a Reinsurance Agreement to an eligible Company as determined by FCIC. To be eligible and qualify initially or thereafter for a Reinsurance Agreement with FCIC, a Company must:

(a) Be licensed or admitted in any state, territory, or possession of the United States;

(b) Be licensed or admitted, or use as a policy-issuing company an insurance company that is licensed or admitted, in each state where the Company will write policies under a Reinsurance Agreement;

(c) Have surplus, as reported in its most recent Annual or Quarterly Statutory Financial Statement, that is at least equal to twice the MPUL amount for the Company's estimated retained premium submitted in its plan of operation.

(d) The Company shall have the financial and operational resources, including but not limited to, organization, experience, internal controls, and technical skills, positive assessment of the ratio results appearing in Section 400.162 as well as meeting methodologies, data submission requirements and assessment appearing in Appendix II (Plan of Operations) of the Reinsurance Agreement to meet the requirements, including addressing reasonable risks, associated with a Reinsurance Agreement, as determined by FCIC.

(e) The Company shall provide data and demonstrate a satisfactory performance record to obtain a Reinsurance Agreement and continue to hold a Reinsurance Agreement for the reinsurance year as determined by FCIC.

§ 400.165 [Reserved]

§ 400.166 [Reserved]

§ 400.167 [Reserved]

§ 400.168 [Reserved]

§ 400.169 Disputes.

(a) If the Company believes that the FCIC has taken an action that is not in accordance with the provisions of a Reinsurance Agreement except compliance issues, it may request the Deputy Administrator of Insurance Services to make a final administrative determination addressing the disputed action. The Deputy Administrator of Insurance Services will render the final administrative determination of the FCIC with respect to the applicable actions. All requests for a final administrative determination must be in writing and submitted within 45 days after receipt after the disputed action.

(b) With respect to compliance matters, the Compliance Field Office renders an initial finding or outcome, permits the Company to respond, and then issues a final finding or outcome. If the Company believes that the Compliance Field Office's final finding or outcome is not in accordance with the applicable laws, regulations, custom or practice of the insurance industry, or FCIC approved policy and procedure, it may request, the Deputy Administrator of Compliance to make a final administrative determination addressing the disputed final finding or outcome. The Deputy Administrator of Compliance will render the final administrative determination of the FCIC with respect to these issues. All requests for a final administrative determination must be in writing and submitted within 45 days after receipt of the final finding or outcome.

(c) A Company may also request reconsideration by the Deputy Administrator of Insurance Services of a decision of the FCIC rendered under any FCIC bulletin or directive which bulletin or directive does not interpret, explain, or restrict the terms of the Reinsurance Agreement. The Company, if it disputes the FCIC's determination, must request a reconsideration of that

determination in writing, within 45 days of the receipt of the determination. The determination of the Deputy Administrator of Insurance Services will be final and binding on the Company. Such determinations will not be appealable to the Board of Contract Appeals.

(d) Appealable final administrative determinations of the FCIC under paragraph (a) or (b) of this section may be appealed to the Board of Contract Appeals in accordance with 48 CFR part 6102 and with the provisions 7 CFR part 24.

§ 400.170 [Reserved]

§ 400.171 [Reserved]

§ 400.172 [Reserved]

§ 400.173 [Reserved]

§ 400.174 [Reserved]

§ 400.175 [Reserved]

§ 400.176 [Reserved]

§ 400.177 [Reserved]

Signed in Washington, DC, on February 1, 2018.

Heather Manzano,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2018–02489 Filed 2–7–18; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0031; Product Identifier 2017–NM–127–AD]

RIN 2120–AA6417

Airworthiness Directives; The Boeing Company 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 The Boeing Company Model 727 airplanes. This proposed AD was prompted by significant changes made to the airworthiness limitations (AWLs) related to fuel tank ignition prevention. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate the latest revision of the AWLs. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 26, 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 Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0031.

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–2018–0031; 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: Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW, Renton, WA 98057–3356; phone: 425–917–6498; fax: 425–917–6590; email: *christopher.r.baker@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–2018–0031; Product Identifier 2017–NM–127–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

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a final rule titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, that rule included Amendment 21–78, which established Special Federal Aviation Regulation No. 88 (''SFAR 88'') at 14 CFR part 21. Subsequently, SFAR 88 was amended by Amendment 21–82 (67 FR 57490, September 20, 2002; corrected at 67 FR 70809, November 26, 2002) and Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–72'' to ''21–83'').

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the final rule published on May 7, 2001, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended

to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing 727–100/200 Airworthiness Limitations (AWLs) D6–8766–AWL, dated December 2016. The service information describes AWL tasks that include airworthiness limitation instructions (ALIs) and critical design configuration control limitations (CDCCLs) related to fuel tank ignition prevention. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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 revision of the maintenance or inspection program to incorporate the ALI and CDCCL tasks described previously.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and CDCCLs. Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before accomplishing the revision of the airplane maintenance or inspection program specified in this proposed AD do not need to be reworked in accordance with the latest revision of the CDCCLs specified by this proposed AD for incorporation. However, once the airplane maintenance or inspection program has been revised as specified by this proposed AD, future maintenance actions on these components must be done in accordance with the CDCCLs specified by this proposed AD.

Related Rulemaking

Five ADs are related to this NPRM. We have determined that certain requirements of those ADs may be terminated when the referenced AWLs specified in this proposed AD have been incorporated, as follows:

- The revision required by paragraph (g) of AD 2008–04–10 R1, Amendment 39–16121 (74 FR 66227, December 15, 2009).
- The revision required by paragraph (h) of AD 2009–05–03, Amendment 39–15827 (74 FR 8851, February 27, 2009).
- The revision required by paragraph (j) of AD 2011–12–05, Amendment 39–16712 (76 FR 33991, June 10, 2011).
- The revision required by paragraph (h) of AD 2013–22–03, Amendment 39–17635 (78 FR 65193, October 31, 2013).
- The revision required by paragraphs (n)(1) and (n)(2) of AD 2013–24–15, Amendment 39–17692 (78 FR 72791, December 4, 2013).

Differences Between This Proposed AD and the Service Information

AWL No. 28–AWL–03 identifies certain wire types. Paragraph (h)(1) of this proposed AD specifies additional acceptable wire types and cables.

AWL No. 28–AWL–03 identifies certain sleeving materials. Paragraph (h)(2) of this proposed AD specifies additional acceptable sleeving materials.

Costs of Compliance

We estimate that this proposed AD affects 20 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
Maintenance or inspection program revision ..	1 work-hour × $85 per hour = $85	$0	$85	$1,700

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

The Boeing Company: Docket No. FAA–2018–0031; Product Identifier 2017–NM–127–AD.

(a) Comments Due Date

We must receive comments by March 26, 2018.

(b) Affected ADs

This AD affects the ADs specified in paragraphs (b)(1) through (b)(5) of this AD.

(1) AD 2008–04–10 R1, Amendment 39–16121 (74 FR 66227, December 15, 2009) (''AD 2008–04–10 R1'').

(2) AD 2009–05–03, Amendment 39–15827 (74 FR 8851, February 27, 2009) (''AD 2009–05–03'').

(3) AD 2011–12–05, Amendment 39–16712 (76 FR 33991, June 10, 2011) (''AD 2011–12–05'').

(4) AD 2013–22–03, Amendment 39–17635 (78 FR 65193, October 31, 2013) (''AD 2013–22–03'').

(5) AD 2013–24–15, Amendment 39–17692 (78 FR 72791, December 4, 2013) (''AD 2013–24–15'').

(c) Applicability

This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category, with an original standard airworthiness certificate or original export certificate of airworthiness issued on or before the effective date of this AD.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by significant changes made to the airworthiness limitations (AWLs) related to fuel tank ignition prevention. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate all information in Section A, including Subsections A.1 and A.2, of Boeing 727–100/200 Airworthiness Limitations (AWLs) D6–8766–AWL, dated December 2016. The initial compliance times for the airworthiness limitation instruction (ALI) items are within the applicable compliance times specified in paragraphs (g)(1) through (g)(6) of this AD.

(1) For AWL No. 28–AWL–01, ''External Wires Over Center Fuel Tank (Tank No. 2)'': at the applicable time specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD.

(i) For airplanes that have been previously inspected as specified in 28–AWL–01 as of the effective date of this AD: Conduct the inspection within 120 months after the most recent inspection.

(ii) For airplanes that have not been inspected as specified in 28–AWL–01 as of the effective date of this AD: Conduct the inspection within 12 months after the effective date of this AD.

(2) For AWL No. 28–AWL–16, ''Over-Current and Arcing Protection Electrical Design Features Operation—Boost Pump Ground Fault Interrupter (GFI)'': at the applicable time specified in paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) For airplanes that have been previously inspected as specified in 28–AWL–16 as of the effective date of this AD: Conduct the inspection within 12 months after the most recent inspection.

(ii) For airplanes that have not been inspected as specified in 28–AWL–16 as of the effective date of this AD: Conduct the inspection within 90 days after the effective date of this AD.

(3) For AWL No. 28–AWL–17, ''Auxiliary Tank Fuel Boost Pump Power Failed On Protection System'': at the applicable time specified in paragraph (g)(3)(i) or (g)(3)(ii) of this AD.

(i) For airplanes that have been previously inspected as specified in 28–AWL–17 as of the effective date of this AD: Conduct the inspection within 12 months after the most recent inspection.

(ii) For airplanes that have not been inspected as specified in 28–AWL–17 as of the effective date of this AD: Conduct the inspection within 90 days after the effective date of this AD.

(4) For AWL No. 28–AWL–18, ''Fuel Quantity Indicating System (FQIS)—Out-Tank Wiring Lightning Shield to Ground Termination and Joint Resistance for the Volumetric Top-Off (VTO) Unit (If Installed)'': at the applicable time specified in paragraph (g)(4)(i) or (g)(4)(ii) of this AD.

(i) For airplanes that have been previously inspected as specified in 28–AWL–18 as of the effective date of this AD: Conduct the inspection within 120 months after the most recent inspection.

(ii) For airplanes that have not been inspected as specified in 28–AWL–18: Conduct the inspection within 12 months after the effective date of this AD.

(5) For AWL No. 28–AWL–22, ''AC Fuel Boost Pump Bonding Installation'': at the applicable time specified in paragraph (g)(5)(i) or (g)(5)(ii) of this AD.

(i) For airplanes that have been previously inspected as specified in 28–AWL–22 as of the effective date of this AD: Conduct the inspection within 72 months after the most recent inspection.

(ii) For airplanes that have not been inspected as specified in 28–AWL–22 as of the effective date of this AD: Conduct the inspection within 12 months after the effective date of this AD.

(6) For AWL No. 28–AWL–24, ''Motor Operated Valve Bonding Jumper Installation—Fault Current Protection'': at the applicable time specified in paragraph (g)(6)(i) or (g)(6)(ii) of this AD.

(i) For airplanes that have been previously inspected as specified in 28–AWL–24 as of the effective date of this AD: Conduct the inspection within 60 months after the most recent inspection.

(ii) For airplanes that have not been inspected as specified in 28–AWL–24 as of the effective date of this AD: Conduct the inspection within 12 months after the effective date of this AD.

(h) Additional Acceptable Wire Types and Sleeving

(1) Where AWL No. 28–AWL–03 identifies wire types BMS 13–48, BMS 13–58, and BMS 13–60, the following acceptable wire types and cables can be added to AWL No. 28–AWL–03: MIL–W–22759/16, SAE AS22759/16 (Formerly M22759/16), MIL–W–22759/32, SAE AS22759/32 (Formerly M22759/32), MIL–W–22759/34, SAE AS22759/34 (Formerly M22759/34), MIL–W–22759/41, SAE AS22759/41 (Formerly M22759/41), MIL–W–22759/86, SAE AS22759/86 (Formerly M22759/86), MIL–W–22759/87, SAE AS22759/87 (Formerly M22759/87), MIL–W–22759/92 and SAE AS22759/92 (Formerly M22759/92); and MIL–C–27500 cables that are constructed from the MIL

specification wire types identified above; and NEMA WC 27500 cables that are constructed from the SAE specification wire types identified above.

(2) Where AWL No. 28–AWL–03 identifies TFE–2X Standard wall for wire sleeving, the following acceptable sleeving materials can be added to AWL No. 28–AWL–03: Roundit 2000NX and Varglas Type HO, HP, or HM, Grade A.

(i) No Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

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

(j) Terminating Actions

Accomplishment of the revision required by paragraph (g) of this AD terminates the actions specified in paragraphs (j)(1) through (j)(5) of this AD for the airplane on which the revision has been incorporated.

(1) The revision required by paragraph (g) of AD 2008–04–10 R1.

(2) The revision required by paragraph (h) of AD 2009–05–03.

(3) The revision required by paragraph (j) of AD 2011–12–05.

(4) The revision required by paragraph (h) of AD 2013–22–03.

(5) The revision required by paragraphs (n)(1) and (n)(2) of AD 2013–24–15.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 (l)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 1601 Lind Avenue SW, Renton, WA 98057–3356; phone: 425–917–6498; fax: 425–917–6590; email: *christopher.r.baker@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 26, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–02085 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0071; Product Identifier 2017–NM–063–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2016–23–01, which applies to all Airbus Model A310 series airplanes. AD 2016–23–01 requires repetitive detailed inspections for cracking around the fastener holes in certain areas of the wing top skin panels, supplemental repetitive ultrasonic inspections for cracking around the fastener holes in certain other areas of the wing top skin panels, and repair if necessary. Since we issued AD 2016–23–01, an evaluation done by the design approval holder (DAH) indicates that the wing top skin panel attachment holes at a certain area are also subject to widespread fatigue damage (WFD). This proposed AD would add an inspection and modification of the attachment holes of the wing top skin panels at a certain area. This proposed AD also includes terminating action for certain inspections. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 26, 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 Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com*; internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2018–0071; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0071; Product Identifier 2017–NM–063–AD'' at the beginning of

your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on 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 proposed AD.

Discussion

We issued AD 2016–23–01, Amendment 39–18708 (81 FR 78899, November 10, 2016) (''AD 2016–23–01''), for all Airbus Model A310 series airplanes. AD 2016–23–01 was prompted by development of an ultrasonic inspection program to allow for earlier crack detection and extended repetitive inspection intervals. AD 2016–23–01 requires repetitive detailed inspections for cracking around the fastener holes in certain wing top skin panels between the front and rear spars on the left- and right-hand sides of the fuselage, supplemental repetitive ultrasonic inspections for cracking around the fastener holes in wing top skin panels 1 and 2 at ribs 2 and 3, and repair if necessary. We issued AD 2016–23–01 to detect and correct fatigue cracking around the fastener holes, which could result in reduced structural integrity of the airplane.

Since we issued AD 2016–23–01, WFD analysis identified structural modification points for certain fastener holes located at each attachment from stringer (STG) 2 through STG10 at ribs 2 and 3 on both wings. Inspections and modifications were developed to reset the fatigue life of the attachment holes at the top skin attachment to rib 2 and rib 3 up to the limit of validity (LOV).

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish an LOV of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

Actions Since AD 2016–23–01 Was Issued

Since we issued AD 2016–23–01, we have received a report that an evaluation done by the DAH indicates that the wing top skin panel attachment holes at ribs 2 and 3 are also subject to WFD, and an analysis identified structural modification points for certain fastener holes located at each attachment from STG2 through STG10 at ribs 2 and 3 on both wings.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0081, dated May 8, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A310 series airplanes. The MCAI states:

Following scheduled maintenance, cracks were found around the wing top skin panels fastener holes at Rib 2, between Stringer (STG) 2 and STG14.

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

To address this issue, Airbus developed an inspection programme, and published Service Bulletin (SB) A310–57–2096, providing instructions for repetitive detailed inspections (DET) to ensure that any visible cracks in the wing top skin panels 1 and 2 along Rib 2 are detected on time and repaired appropriately. Consequently, EASA issued AD 2008–0211 [which corresponds to FAA AD 2010–04–03] to require implementation of that inspection programme.

After that [EASA] AD was issued, Airbus improved the inspection programme, revising SB A310–57–2096 accordingly, to include a special detailed inspection (SDI), using an ultrasonic method, to allow earlier crack detection, to subsequently reduce the scope of potential repair action, and to extend the intervals of the repetitive inspections.

Consequently, EASA issued AD 2014–0200 (later revised), retaining the requirements of EASA AD 2008–0211, which was superseded, and required supplementary repetitive SDI [for cracking] of the wing top skin panel 1 and 2 between STG2 and STG10 at Rib 2 [and repair if needed], as described in Airbus SB A310–57–2096 Revision 02.

Since EASA AD 2014–0200R1 was issued, a Widespread Fatigue Damage (WFD) analysis concluded that the inspection programme had to be extended to include the wing top skin panels at Rib 3 attachments, and Airbus issued SB A310–57–2096 Revision 03 accordingly, to provide the necessary instructions. Consequently, EASA issued [EASA] AD 2016–0005 [which corresponds to FAA AD 2016–23–01], retaining the requirements of EASA AD 2014–0200R1, which was superseded, and extending the inspection area to include Rib 3.

In addition to changes to the inspected area, WFD analysis identified structural modification points for certain fastener holes, located at each attachment from STG2 to STG10, at Ribs 2 and 3 on both wings.

Airbus developed modification (mod) 13785 and mod 13786, consisting of an SDI, followed by an oversize of the defined holes on Ribs 2 and 3 on both wings. Airbus issued SB A310–57–2106 and SB A310–57–2107 to provide in-service modification instructions for top skin attachments to Rib 2 and Rib 3 respectively. Accomplishment of these modifications at the specified time will reset the fatigue life of the attachment holes at the top skin attachment to Rib 2 and Rib 3 to the Limit of Validity (LOV). Airbus issued inspection SB A310–57–2096 Revision 04 to account for the inspection requirements post-modification.

For the reasons describe above, this [EASA] AD retains the requirements of EASA AD 2016–0005, which is superseded, requires modifications to the top skin attachment holes at Rib 2 and Rib 3, and

defines the inspection requirements for Rib 2 and Rib 3 after modification.

Modification of the fastener holes at top skin ribs 2 and 3 constitutes terminating action for certain repetitive special detailed inspections. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0071.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information.

- Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016. This service information describes procedures for detailed and ultrasonic inspections for cracking around the fastener holes of wing top skin panels 1 and 2, at ribs 2 and 3, on the left- and right-hand sides of the fuselage.
- Airbus Service Bulletin A310–57–2106, dated November 14, 2016. This service information describes procedures for a special detailed inspection and modification of the fastener holes of wing top skin panels 1 and 2, at rib 2.
- Airbus Service Bulletin A310–57–2107, dated November 14, 2016. This service information describes procedures for a special detailed inspection and modification of the fastener holes of wing top skin panels 1 and 2, at rib 3.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Explanation of Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 8 airplanes of U.S. registry.

The actions required by AD 2016–23–01, and retained in this proposed AD, take about 8 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2016–23–01 on U.S. operators to be $5,440, or $680 per product.

We also estimate that it would take about 95 work-hours per product to comply with the basic requirements of this proposed AD. Required parts would cost about $10,200 per product. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $146,200, or $18,275 per product.

In addition, we estimate that any necessary modification would take about 40 work-hours and require parts costing $10,000, for a cost of $13,400 per product. We have no way of determining the number of aircraft that might need these actions.

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

Regulatory Findings

We determined that this 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 removing Airworthiness Directive (AD) 2016–23–01, Amendment 39–18708 (81 FR 78899, November 10, 2016), and adding the following new AD:

Airbus: Docket No. FAA–2018–0071; Product Identifier 2017–NM–063–AD.

(a) Comments Due Date

We must receive comments by March 26, 2018.

(b) Affected ADs

This AD replaces AD 2016–23–01, Amendment 39–18708 (81 FR 78899, November 10, 2016) (''AD 2016–23–01'').

(c) Applicability

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

(d) Subject

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

(e) Reason

This AD was prompted by an evaluation done by the design approval holder (DAH) indicating that the wing top skin panel attachment holes at ribs 2 and 3 are also subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking around the fastener holes, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Repetitive Inspections, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2016–23–01, with revised service information. Except as required by paragraph (i) of this AD: Within the initial compliance time and thereafter at the repetitive intervals specified in paragraphs (h)(1) through (h)(3) of this AD, as applicable, accomplish the actions specified in paragraphs (g)(1) and (g)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015, or Revision 04, dated December 5, 2016; except as provided by paragraph (j) of this AD. As of the effective date of this AD, use only Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016, to accomplish the required actions.

(1) Accomplish a detailed inspection for cracking around the fastener holes in the wing top skin panels 1 and 2, along ribs 2 and 3, between the front and rear spars on the left- and right-hand sides of the fuselage.

(2) Accomplish an ultrasonic inspection for cracking around the fastener holes in the wing top skin panels 1 and 2, along ribs 2 and 3, between stringer (STG) 2 and STG10 on the left- and right-hand sides of the fuselage.

(h) Retained Compliance Times for Airplanes Not Previously Inspected, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2016–23–01, with no changes.

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD at the later of the times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at intervals not to exceed 2,000 flight cycles or 4,100 flight hours, whichever occurs first.

(i) Prior to the accumulation of 18,700 flight cycles or 37,400 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after December 15, 2016 (the effective date of AD 2016–23–01).

(2) For Model A310–304, –322, –324, and –325 airplanes having an average flight time (AFT) of less than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD at the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at intervals not to exceed 2,000 flight cycles or 5,600 flight hours, whichever occurs first.

(i) Prior to the accumulation of 17,300 flight cycles or 48,400 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after December 15, 2016 (the effective date of AD 2016–23–01).

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of equal to or more than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD at the later of the times specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at intervals not to exceed 1,500 flight cycles or 7,500 flight hours, whichever occurs first.

(i) Prior to the accumulation of 12,800 flight cycles or 64,300 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after December 15, 2016 (the effective date of AD 2016–23–01).

(i) Retained Compliance Times for Airplanes Previously Inspected, With Revised Service Information

This paragraph restates the requirements of paragraph (i) of AD 2016–23–01, with revised service information.

For airplanes previously inspected before December 15, 2016 (the effective date of AD 2016–23–01), using Airbus Service Bulletin A310–57–2096, dated May 6, 2008; Airbus Service Bulletin A310–57–2096, Revision 01, dated August 5, 2010; or Airbus Service Bulletin A310–57–2096, Revision 02, dated March 5, 2014: At the applicable compliance times specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, accomplish the actions specified in paragraphs (g)(1) and (g)(2) concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015, or Revision 04, dated December 5, 2016. As of the effective date of this AD, use only Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016, to accomplish the required actions. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the repetitive intervals specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD within 3,500 flight hours or 1,700 flight cycles, whichever occurs first since the most recent inspection.

(2) For Model A310–304, –322, –324, and –325 airplanes having an AFT of less than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD within 4,600 flight hours or 1,600 flight cycles, whichever occurs first since the most recent inspection.

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of equal to or more than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD within 6,100 flight hours or 1,200 flight cycles, whichever occurs first since the most recent inspection.

(j) Retained Compliance Times if No Ultrasonic Equipment Is Available, With Revised Service Information

This paragraph restates the requirements of paragraph (j) of AD 2016–23–01, with revised service information. If no ultrasonic equipment is available for the initial or second inspection required by paragraph (g) or (h) of this AD, accomplish the detailed inspection specified in paragraph (g)(1) of this AD within the applicable compliance times specified in paragraphs (j)(1) and (j)(2) of this AD. After accomplishing the detailed inspection, do the inspections specified in paragraphs (g)(1) and (g)(2) of this AD at the applicable compliance times specified by paragraphs (i)(1), (i)(2), and (i)(3) of this AD. Subsequently, repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the applicable repetitive intervals specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) For airplanes not previously inspected before December 15, 2016 (the effective date of AD 2016–23–01), using the service information identified in paragraph (j)(2)(i), (j)(2)(ii), (j)(2)(iii), or (j)(2)(iv) of this AD: Do the actions required by paragraph (g)(1) of this AD within the initial compliance time specified by paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(2) For airplanes previously inspected before December 15, 2016 (the effective date of AD 2016–23–01), using the service information identified in paragraph (j)(2)(i), (j)(2)(ii), (j)(2)(iii), or (j)(2)(iv) of this AD: Do the actions required by paragraph (g)(1) of this AD within the applicable compliance times specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD.

(i) Airbus Service Bulletin A310–57–2096, dated May 6, 2008.

(ii) Airbus Service Bulletin A310–57–2096, Revision 01, dated August 5, 2010.

(iii) Airbus Service Bulletin A310–57–2096, Revision 02, dated March 5, 2014.

(iv) Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015.

(k) Retained Repair of Cracking, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2016–23–01, with no changes. If any cracking is found during any inspection required by paragraph (g), (h), (i), or (j) of this AD, before further flight, repair the cracking using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature. Accomplishing the repair specified in this paragraph terminates the repetitive inspections required by paragraph (g), (h), (i), or (j) of this AD, as applicable, for the repaired area only.

(l) Retained Definition of AFT, With No Changes

This paragraph restates the requirements of paragraph (l) of AD 2016–23–01, with no changes. For the purposes of this AD, the AFT should be established as specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD for the determination of the compliance times.

(1) The inspection threshold is defined as the total flight hours accumulated (counted from take-off to touch-down), divided by the total number of flight cycles accumulated at the effective date of this AD.

(2) The initial inspection interval is defined as the total flight hours accumulated divided by the total number of flight cycles accumulated at the time of the initial inspection threshold.

(3) The second inspection interval is defined as the total flight hours accumulated divided by the total number of flight cycles accumulated between the initial and second inspection threshold. For all inspection intervals onwards, the average flight time is the flight hours divided by the flight cycles accumulated between the last two inspections.

(m) New Requirements of This AD: Rib 2 Inspection and Modification

At the compliance time specified in paragraph (n) of this AD, as applicable, accomplish the actions specified in paragraphs (m)(1) and (m)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2106, dated November 14, 2016.

(1) Accomplish a special detailed inspection to determine the diameter of the fastener holes in the wing top skin panels 1 and 2, at rib 2 of both wings.

(2) Modify the fastener holes.

(n) New Compliance Times for Rib 2 Inspection and Modification

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (m)(1) and (m)(2) of this AD at the later of the times specified in paragraphs (n)(1)(i) and (n)(1)(ii) of this AD.

(i) Prior to the accumulation of 40,000 flight cycles or 93,300 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(2) For Model A310–304, –322, –324, and –325 airplanes having an average flight time (AFT) of less than 4 hours: Do the actions required by paragraphs (m)(1) and (m)(2) of this AD at the later of the times specified in paragraphs (n)(2)(i) and (n)(2)(ii) of this AD.

(i) Prior to the accumulation of 40,000 flight cycles or 116,000 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of 4 hours or more: Do the actions required by paragraphs (m)(1) and (m)(2) of this AD at the later of the times specified in paragraphs (n)(3)(i) and (n)(3)(ii) of this AD.

(i) Prior to the accumulation of 30,000 flight cycles or 150,000 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(o) New Requirements of This AD: Rib 3 Inspection and Modification

At the compliance time specified in paragraph (p) of this AD, as applicable, accomplish the actions specified in paragraphs (o)(1) and (o)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2107, dated November 14, 2016.

(1) Accomplish a special detailed inspection to determine the diameter of the fastener holes in the wing top skin panels 1 and 2, at rib 3 of both wings.

(2) Modify the fastener holes.

(p) New Compliance Times for Rib 3 Inspection and Modification

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (o)(1) and (o)(2) of this AD at the later of the times specified in paragraphs (p)(1)(i) and (p)(1)(ii) of this AD.

(i) Prior to the accumulation of 46,400 flight cycles or 92,900 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(2) For Model A310–304, –322, –324, and –325 airplanes having an average flight time (AFT) of less than 4 hours: Do the actions required by paragraphs (o)(1) and (o)(2) of this AD at the later of the times specified in paragraphs (p)(2)(i) and (p)(2)(ii) of this AD.

(i) Prior to the accumulation of 45,400 flight cycles or 127,300 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of 4 hours or more: Do the actions required by paragraphs (o)(1) and (o)(2) of this AD at the later of the times specified in paragraphs (p)(3)(i) and (p)(3)(ii) of this AD.

(i) Prior to the accumulation of 33,800 flight cycles or 169,000 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(q) New Corrective Actions

If any cracking is found during any inspection required by paragraph (m), (n), (o), or (p) of this AD, before further flight, repair the cracking using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature. Accomplishing the repair specified in this paragraph terminates the repetitive inspections required by paragraph (g), (h), (i), or (j) of this AD, as applicable, for the repaired area only.

(r) New Terminating Actions

(1) Accomplishment of the modification specified in paragraph (m) of this AD constitutes terminating action for the repetitive special detailed inspections required by paragraph (g)(2) of this AD for the modified fastener holes at top skin rib 2 for that airplane. After modification, the unmodified fastener holes at top skin rib 2 between the front and rear spars remain subject to the repetitive inspections required by paragraph (g)(1) of this AD.

(2) Accomplishment of the modification specified in paragraph (o) of this AD constitutes terminating action for the repetitive special detailed inspections required by paragraph (g)(2) of this AD for the modified fastener holes at top skin rib 3 for that airplane. After modification, the unmodified fastener holes at top skin rib 3 between the front and rear spars remain subject to the repetitive inspection required by paragraph (g)(1) of this AD.

(s) Other FAA AD Provisions

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

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

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

(t) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0081, dated May 8, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0071.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer,

International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 25, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–02084 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0025; Product Identifier 2017–NM–101–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A310–203, –221, –222, –304, –322, –324, and –325 airplanes. This proposed AD was prompted by a design approval holder (DAH) evaluation indicating that the outer wing lower junction is subject to widespread fatigue damage (WFD). This proposed AD would require modifying the fastener holes at certain locations, which includes related investigative actions and applicable corrective actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 26, 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 Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2018–0025; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0025; Product Identifier 2017–NM–101–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 based on 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

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as widespread fatigue damage. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty

regarding the LOV applicable to their airplanes.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0122, dated July 18, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A310–203, –221, –222, –304, –308, –322, –324, and –325 airplanes. The MCAI states:

In response to the FAA Part 26 rule, wing structural items of the Airbus A310 design were assessed regarding Widespread Fatigue Damage (WFD) phenomenon. One outcome was that the outer wing lower junction is prone to WFD at level of the first fasteners row, close to Rib 1 between Frame (FR) 40 and FR 47.

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

Prompted by the conclusion of WFD analysis, Airbus issued Service Bulletin (SB) A310–57–2105 to provide modification instructions. The accomplishment of this modification at the specified time will recondition/renovate/extend the life of the fasteners holes at Rib 1, in order to reach the Limit Of Validity.

For the reasons described above, this [EASA] AD requires cold working of the affected holes at Rib 1, stiffeners 1 to 14, on both outer wings between FR 40 and FR 47.

Required actions include a modification of the fastener holes at rib 1, stiffeners 1 to 14, on both outer wings between FR 40 and FR 47 by cold-working. The modification includes related investigative actions and applicable corrective actions. The related investigative actions include a rotating probe test of the fastener holes for cracks and checking the hole diameter for certain diameters. The corrective action is repair.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0025.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A310–57–2105, Revision 00, dated November 23, 2016. The service information describes procedures for a modification of the fastener holes at rib 1, stiffeners 1 to 14, on both outer wings between FR 40 and FR 47 by cold-working and includes related investigative actions and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 13 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
Modification, including related investigative actions.	66 work-hours × $85 per hour = $5,610	$24,200	$29,810	$387,530

We estimate the following costs to do any necessary repair 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
Repair	9 work-hours × $85 per hour = $765	$254	$1,019

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

Regulatory Findings

We determined that this 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):

Airbus: Docket No. FAA–2018–0025; Product Identifier 2017–NM–101–AD.

(a) Comments Due Date

We must receive comments by March 26, 2018.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

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

(e) Reason

This AD was prompted by a design approval holder (DAH) evaluation indicating that the outer wing lower junction is subject to widespread fatigue damage (WFD). We are issuing this AD to prevent WFD at the outer wing lower junction, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Modification

Before exceeding the compliance time specified in figure 1 to paragraph (g) of this AD, as applicable, or within 30 days after the effective date of this AD, whichever occurs later: Modify the fastener holes at rib 1, stiffeners 1 to 14, on both outer wings between frame (FR) 40 and FR 47, including doing all related investigative and applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2105, Revision 00, dated November 23, 2016, except as required by paragraph (h) of this AD. Do all related investigative and applicable corrective actions before further flight.

Figure 1 to Paragraph (g) of this AD –
Compliance Times for Cold Working Modification of Holes at Rib 1

Airplanes	**Compliance Times** (Flight Cycles (FC) or Flight Hours (FH) whichever occurs first since the airplane's first flight)
A310-203, A310-221, and A310-222	47,000 FC or 103,900 FH
A310-304, A310-322, A310-324, and A310-325	42,100 FC or 118,100 FH

(h) Service Information Exception

Where Airbus Service Bulletin A310–57–2105, Revision 00, dated November 23, 2016, specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (i)(2) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0122, dated July 18, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0025.

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

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 25, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–02018 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0028; Product Identifier 2017–NM–143–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, 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 Bombardier, Inc., Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601 Variant), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This proposed AD was prompted by a determination that the safe life limits of the horizontal stabilizer trim actuator (HSTA) attachment pins and trunnions were not listed in certain airworthiness limitations (AWLs) and that the HSTA attachment pins and trunnions were not serialized. This proposed AD would require revision of the maintenance or inspection program, as applicable, to include the latest revision of the AWLs, serialization of the HSTA attachment pins and trunnions, and repair or replacement of damaged HSTA attachment pins and trunnions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 26, 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 Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2018–0028; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7239; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0028; Product Identifier 2017–NM–143–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 based on 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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2017–24, dated July 12, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601 Variant), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. The MCAI states:

> During a review of the Horizontal Stabilizer Trim Actuator (HSTA) system, it was discovered that the safe life limits of the HSTA attachment pins and trunnions were not listed in the Airworthiness Limitation (AWL) Section of the Instructions for Continued Airworthiness. Also, the HSTA attachment pins and trunnions were not serialized making it impossible to keep accurate records of the life of these parts. Failure of these pins and trunnions could lead to a disconnect of the horizontal stabilizer and subsequent loss of the aeroplane.
>
> This [Canadian] AD mandates the incorporation of AWL tasks into the maintenance schedule and serialization of HSTA attachment pins and trunnions. Some aircraft require AWL tasks and serialization of the attachment pins only, while others require AWL tasks and serialization of the trunnions and attachment pins [and repair or replacement if damaged (including linear scratches, pits, spalling, dents, or surface texture variations)].

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply

with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (m)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0028.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information.

The following service information describes procedures for serializing the HSTA attachment pins and trunnions. These documents are distinct since they apply to different airplane models in different configurations.

- Bombardier Service Bulletin 600–0760, Revision 01, dated April 21, 2017.
- Bombardier Service Bulletin 601–0626, Revision 01, dated April 21, 2017.
- Bombardier Service Bulletin 604–27–034, Revision 01, dated April 21, 2017.
- Bombardier Service Bulletin 605–27–005, Revision 01, dated April 21, 2017.

The following service information identifies airworthiness limitation tasks for revising the life limits for HSTA attachment pins and trunnions. These documents are distinct since they apply to different airplane models in different configurations.

- Task 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 600 Time Limits/Maintenance Checks, Publication No. PSP 605, Revision 38, dated March 28, 2017.
- Task 5–10–10, ''Time Limits (Structural)—Pre SB 601—0280,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.
- Task 5–10–11, ''Time Limits (Structural)—Post SB 601—0280,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.
- Task 5–10–12, ''Time Limits (Structural)—Post SB 601—0360,'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.
- Task 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP–601A5, Revision 41, dated March 28, 2017.
- Task 5–10–11, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP–601A5, Revision 41, dated March 28, 2017.
- Task 5–10–12, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP–601A5, Revision 41, dated March 28, 2017.

The following service information describes life limits for certain HSTA attachment pins and trunnion supports. These documents are distinct since they apply to different airplane models in different configurations.

- Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3,'' of Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 29, dated June 16, 2017.
- Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3,'' of Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 29, dated June 16, 2017.
- Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3,'' of Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 17, dated June 16, 2017.
- Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3,'' of Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 17, dated June 16, 2017.
- Task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3,'' of Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 4, dated June 16, 2017.
- Task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3,'' of Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 4, dated June 16, 2017.

The following service information describes procedures for identifying damage to HSTA attachment pins and trunnions, and repair or replacement instructions. These documents are distinct since they apply to different airplane models in different configurations.

- Bombardier Repair Engineering Order (REO) 600–27–42–002, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.
- Bombardier Repair Engineering Order (REO) 600–27–42–011, ''General Repair—HSTA Trunnion P/N 601R92386–1/–3,'' dated December 15, 2016.
- Bombardier Repair Engineering Order (REO) 604–27–42–012, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 137 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
Revision of maintenance or inspection program.	1 work-hour × $85 per hour = $85	$0	$85	$11,645.
Serialization	Up to 20 work-hours × $85 per hour = $1,700.	449	Up to $2,149	Up to $294,413.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

We determined that this 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):

Bombardier, Inc.: Docket No. FAA–2018–0028; Product Identifier 2017–NM–143–AD.

(a) Comments Due Date

We must receive comments by March 26, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bombardier, Inc., airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category.

(1) Model CL–600–1A11 (CL–600) airplanes, serial numbers 1002 and 1004 through 1085 inclusive.

(2) Model CL–600–2A12 (CL–601 Variant) airplanes, serial numbers 3001 through 3066 inclusive.

(3) Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes, serial numbers 5001 through 5194 inclusive.

(4) Model CL–600–2B16 (CL–604 Variant) airplanes, serial numbers 5301 through 5665 inclusive, 5701 through 5990 inclusive, and 6050 and subsequent.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that the safe life limits of the horizontal stabilizer trim actuator (HSTA) attachment pins and trunnions were not listed in certain airworthiness limitations (AWLs) and that the HSTA attachment pins and trunnions were not serialized. We are issuing this AD to prevent failure of the HSTA attachment pins and trunnions, which could lead to a disconnect of the horizontal stabilizer and subsequent loss of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision for Model CL–600–1A11 (CL–600), Model CL–600–2A12 (CL–601 Variant), and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) Airplanes

For airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD: Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the life limit AWL tasks identified in table 1 to paragraph (g) of this AD, as specified in the applicable service information identified in paragraphs (g)(1), (g)(2), or (g)(3) of this AD. The initial compliance time is within 500 flight cycles of the effective date of this AD, or at the applicable time (in terms of landings) specified in the applicable AWL task identified in table 1 to paragraph (g) of this AD, whichever occurs later.

(1) For Model CL–600–1A11 (CL–600) airplanes, Task 5–10–10, ''Time Limits (Structural),'' of Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 600 Time Limits/Maintenance Checks, Publication No. PSP 605, Revision 38, dated March 28, 2017.

(2) For Model CL–600–2A12 (CL–601 Variant) airplanes, the applicable task specified in paragraph (g)(2)(i), (g)(2)(ii), or (g)(2)(iii) of this AD, as identified in Section 5–10–00, ''Airworthiness Limitations,'' of

Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP 601–5, Revision 45, dated March 28, 2017.

(i) Task 5–10–10, ''Time Limits (Structural)—Pre SB 601–0280.''

(ii) Task 5–10–11, ''Time Limits (Structural)—Post SB 601–0280.''

(iii) Task 5–10–12, ''Time Limits (Structural)—Post SB 601–0360.''

(3) For Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes, the applicable task specified in paragraph (g)(3)(i), (g)(3)(ii) or (g)(3)(iii) of this AD, as identified in Section 5–10–00, ''Airworthiness Limitations,'' of Bombardier Challenger 601 Time Limits/Maintenance Checks, Publication No. PSP–601A5, Revision 41, dated March 28, 2017.

(i) Task 5–10–10, ''Time Limits (Structural).''

(ii) Task 5–10–11, ''Time Limits (Structural).''

(iii) Task 5–10–12, ''Time Limits (Structural).''

Table 1 to paragraph (g) of this AD – *Life limit AWL tasks*

Part Name	Part Number	Landings
HSTA installation pin, lower attachment	600-92383-1	50,000
HSTA installation pin, upper attachment	600-92384-1	50,000

(h) Maintenance or Inspection Program Revision for Model CL–600–2B16 (CL–604 Variant) Airplanes

For airplanes identified in paragraph (c)(4) of this AD: Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate new life limit AWL task 27–42–01–108, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Trunnion Support; Part No. 601R92386–1/–3,'' and task 27–42–01–112, ''Discard of the Horizontal-Stabilizer Trim-Actuator (HSTA) Upper and Lower Attachment Pins; Upper Pin Part No. 600–92384–5/–7 or 601R92310–1/–3 and Lower Pin Part No. 600–92383–5/–7 or 601R92309–1/–3,'' as specified in the applicable time limits maintenance checks (TLMC) manuals identified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD. The initial compliance time is within 500 flight cycles after the effective date of this AD, or at the applicable time specified in the applicable AWL task, whichever occurs later.

(1) For airplanes having serial numbers 5301 through 5665 inclusive: Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 604 CL–604 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 29, dated June 16, 2017.

(2) For airplanes having serial numbers 5701 through 5990 inclusive: Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 605 CL–605 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 17, dated June 16, 2017.

(3) For airplanes having serial numbers 6050 and subsequent: Section 5–10–10, ''Life Limits (Structures),'' of Bombardier Challenger 650 CL–650 Time Limits/Maintenance Checks, Part 2 Airworthiness Limitations, Revision 4, dated June 16, 2017.

(i) Serialization of HSTA Attachment Pins and Trunnions

For airplanes identified in table 2 to paragraph (i) of this AD: Within 48 months after the effective date of this AD, or prior to performing a maintenance task required by paragraph (g) or (h) of this AD, as applicable, whichever occurs first, do a general visual inspection for damage (including linear scratches, pits, spalling, dents, or surface texture variations), and add serial numbers to the HSTA trunnions, lower attachment pin, and upper attachment pin, as applicable, in accordance with the Accomplishment Instructions of the applicable service information specified in table (2) to paragraph (i) of this AD. If any damage to the HSTA trunnions or attachment pins is found, repair the damage in accordance with the applicable service information specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD; or using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature. If the damaged HSTA trunnion or attachment pin cannot be repaired in accordance with the applicable service information specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD: Before further flight, replace the damaged HSTA trunnion or attachment pin with a serviceable serialized HSTA trunnion or attachment pin, in accordance with the applicable service information specified in table (2) to paragraph (i) of this AD.

(1) Bombardier Repair Engineering Order (REO) 600–27–42–002, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

(2) Bombardier Repair Engineering Order (REO) 600–27–42–011, ''General Repair—HSTA Trunnion P/N 601R92386–1/-3,'' dated December 15, 2016.

(3) Bombardier Repair Engineering Order (REO) 604–27–42–012, ''General Repair—HSTA Upper and Lower Pins,'' dated December 15, 2016.

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Table 2 to paragraph (i) of this AD – *Service bulletins for part serialization*

Airplane model	Bombardier Service Bulletin	Parts to serialize
CL-600-1A11 (CL-600), serial numbers 1002 and 1004 through 1085 inclusive	600-0760, Revision 01, dated April 21, 2017	HSTA upper attachment pin HSTA lower attachment pin
CL-600-2A12 (CL-601 Variant), serial numbers 3001 through 3066 inclusive	601-0626, Revision 01, dated April 21, 2017	HSTA upper attachment pin HSTA lower attachment pin
CL-600 2B16 (CL-601-3A and CL-601-3R Variants), serial numbers 5001 through 5194 inclusive	601-0626, Revision 01, dated April 21, 2017	HSTA upper attachment pin HSTA lower attachment pin
CL-600-2B16 (CL-604 Variant), serial numbers 5301 through 5665 inclusive	604-27-034, Revision 01, dated April 21, 2017	HSTA trunnions HSTA upper attachment pin HSTA lower attachment pin
CL-600-2B16 (CL-604 Variant), serial numbers 5701 through 5926 inclusive	605-27-005, Revision 01, dated April 21, 2017	HSTA trunnions HSTA upper attachment pin HSTA lower attachment pin

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(j) No Alternative Actions or Intervals

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

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (k)(1), (k)(2), (k)(3), or (k)(4) of this AD, as applicable.

(1) Bombardier Service Bulletin 600–0760, dated February 25, 2013.

(2) Bombardier Service Bulletin 601–0626, dated February 25, 2013.

(3) Bombardier Service Bulletin 604–27–034, dated February 25, 2013.

(4) Bombardier Service Bulletin 605–27–005, dated February 25, 2013.

(l) Parts Installation Limitations

(1) As of the effective date of this AD, no person may install, on any airplane, an HSTA attachment pin, unless the pin has a serial number.

(2) As of the effective date of this AD, no person may install, on any Bombardier, Inc., Model CL–600–2B16 (CL–604 Variant) airplane with serial number 5301 and subsequent, an HSTA trunnion, unless the HSTA trunnion has a serial number.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2017–24, dated July 12, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0028.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7239; fax 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–

866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 26, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–02088 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0338]

Regulated Navigation Areas; Harbor Entrances Along the Coast of Northern California

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: The Coast Guard requests public comments on the potential establishment of Regulated Navigation Areas (RNAs) at the harbor entrance bars to Crescent Harbor, Humboldt Bay, Noyo River, and Morro Bay. In order to mitigate potential hazards and provide transparent communication with all mariners during hazardous weather conditions, this proposed RNA regulation would provide predictable protocols to mariners for potential restriction to traffic and conditions that prohibit vessels from entering a specified area surrounding each bar during hazardous weather conditions unless authorized by Commander, District Eleven or a designated representative. We seek your comments on what you believe to be the potential benefit or possible negative impact if we were to establish RNAs at these harbor entrances. We welcome all suggestions, ideas, and solutions for maintaining mariner and vessel safety during adverse weather and sea conditions at these harbor entrances.

DATES: Your comments and related material must reach the Coast Guard on or before March 12, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0338 using the Federal portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of inquiry, call or email Lieutenant Colleen Ryan, Coast Guard District Eleven, Waterways Management; telephone 510–437–5984, email *Colleen.M.Ryan@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
RNA Regulated Navigation Area
U.S.C. United States Code
§ Section Symbol

II. Background and Purpose

Since 1998 COTP San Francisco and COTP Los Angeles/Long Beach (LA/LB) have issued various navigation safety advisories and created numerous emergency safety zones to mitigate risk to mariners and their vessels transiting the Crescent Harbor, Humboldt Bay, Noyo River, and Morro Bay harbor entrances during hazardous bar conditions. These emergency safety zones promulgated policies and procedures for closing the bar to vessel traffic, while also providing parameters and procedures for waiver requests. The use and application of emergency safety zones to accomplish the required risk mitigation does not provide advance notice, consistency, or predictability of Coast Guard actions to mariners; nor do safety zones allow for the promulgation of additional safety requirements to mitigate risk of necessary transits of the harbor bars. The RNAs under consideration would define the parameters and implementation procedures for restricting access to the applicable areas during hazardous conditions and define safety requirements for vessels operating within the RNAs.

The current protocols for restricting traffic in the vicinity of the Crescent City, Humboldt Bay, Noyo River, and Morro Bay harbor bar entrances are insufficient and do not provide consistency and predictability to the mariner, or allow for the establishment of bar crossing safety measures. The existing warning promulgation process is comprised of emergency safety zone implementation which, due to the emergent nature of heavy weather does not allow for advance notice and does not adequately ensure the safety of persons and vessels operating in those areas during heavy weather. Bars along the northern California coast experience severe wave, sea, and current conditions similar to the conditions that have contributed to various marine casualties along the northern Pacific coast. Coast Guard and National Transportation Safety Board (NTSB) casualty investigations identified a need for specific regulations to mitigate these risks to ensure the safety of the mariners and vessels operating in the vicinity of bars (*see* NTSB, Safety Recommendation M–05–009 at *http://www.ntsb.gov/investigations/AccidentReports/_layouts/ntsb.recsearch/Recommendation.asp:Rec=M-05-009*).

On October 17, 2005, in a written response to the NTSB M–05–009 recommendation, the Coast Guard articulated its intention to develop written policies for transiting west coast bars and inlets. We consider access restrictions within a defined RNA to be the best method to ensure mariner and vessel safety when adverse weather and sea conditions make crossing the bar at harbor entrances especially dangerous. In November 2009, the Thirteenth Coast Guard District published a final rule (74 FR 59098, Nov. 17, 2009) to mitigate bar transit risks that addressed NTSB recommendations M–05–009 and M–05–010. The Eleventh Coast Guard District is considering drafting a proposal for a rule similar to 33 CFR 165.1325 to provide predictability to local mariners regarding restrictions on navigation in the vicinity of Crescent City, Humboldt Bay, Noyo River, and Morro Bay harbor bar entrances based on weather, sea, tide, and river conditions. Such a regulation would establish predictable sea and weather conditions that will set a ''Go/No-go'' standard for restricting recreational, commercial fishing, and passenger vessel access to the RNA.

III. Information Requested

Through this request for information, the Coast Guard seeks comments and information for agency consideration and to inform any future establishment of RNAs that would create bar closure conditions as well as regulate vessel bar transits during hazardous bar conditions for all recreational, commercial fishing, and passenger vessels. The Coast Guard requests and encourages open discussion and candid feedback on the possibility of establishing RNAs for Crescent City, Humboldt Bay, Noyo River, and Morro Bay harbor bar entrances. The following considerations warrant special attention:

- Weather and sea conditions at the bars that the maritime community considers a risk to safe navigation for

recreational vessels, passenger vessels, fishing vessels and deep draft vessel;

- The economic impact of bar closures and restrictions on the maritime community; and
- Preferred methods of notification for bar restrictions and closures.

IV. Public Participation and Request for Comments

We encourage you to submit comments through the Federal portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. In your submission, please include the docket number for this notice of inquiry and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

All public comments will be available in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions.

This document is issued under authority of 33 U.S.C. 1231.

Dated: February 1, 2018.

James B. Pruett,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 2018–02503 Filed 2–7–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0550; FRL–9974–24–Region 4]

Air Plan Approval; KY; Fine Particulate Matter and Ozone NAAQS Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of State Implementation Plan (SIP) revisions submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality, on December 21, 2016 and August 29, 2017, on behalf of the Louisville Metro Air Pollution Control District (District). EPA is proposing to approve the portions of the submittals that modify the District's Ambient Air Quality Standards regulation, as incorporated into the SIP. The revisions to the SIP that EPA is proposing to approve pertain to changes to the District's air quality standards for fine particulate matter ($PM_{2.5}$) and ozone to reflect the 2012 $PM_{2.5}$ and 2015 ozone national ambient air quality standards (NAAQS). EPA is proposing to approve these portions of the SIP revisions because the Commonwealth has demonstrated that they are consistent with the Clean Air Act (CAA or Act). EPA will act on the other portions of the December 21, 2016, and August 29, 2017, submittals in a separate action.

DATES: Written comments must be received on or before March 12, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0550 at *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Sanchez can be reached via telephone at (404) 562–9644 or via electronic mail at *sanchez.madolyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR 50—*National Primary and Secondary Ambient Air Quality Standards*. In this rule, EPA is proposing to approve the portions of the revisions to the Jefferson County air quality regulations [1] addressing Regulation 3.01, *Ambient Air Quality Standards,* in the Kentucky SIP, submitted by the Commonwealth on December 21, 2016, and August 29, 2017. Regulation 3.01 is amended [2] by updating air quality standards in Section 7 for $PM_{2.5}$ and ozone to reflect the most recent NAAQS, removing the numbering of the subsections in Section 7, and making textual modifications to the footnotes. The SIP submittals amending the Jefferson County regulations to incorporate the most recent $PM_{2.5}$ and ozone NAAQS can be found in the docket for this rulemaking at *www.regulations.gov* and are summarized below.

II. EPA's Analysis of Kentucky's Submittal

On December 14, 2012 (78 FR 3086), EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS, strengthening it from 15.0 micrograms per cubic meter ($\mu g/m^3$) to 12.0 $\mu g/m^3$, and retained the existing primary 24-hour $PM_{2.5}$ standard at 35 $\mu g/m^3$. Accordingly, in the August 29, 2017, SIP submittal, the District revised Regulation 3.01, *Ambient Air Quality Standards,* to update the primary air quality standard for $PM_{2.5}$ to be consistent with the NAAQS that were promulgated by EPA in 2012. EPA has reviewed this change to the Jefferson County regulation for $PM_{2.5}$ and has made the determination that this change is consistent with federal regulations.

On October 1, 2015 (80 FR 65292), EPA promulgated revised 8-hour primary and secondary ozone NAAQS, strengthening both from 0.075 parts per

[1] In 2003, the City of Louisville and Jefferson County governments merged and the ''Jefferson County Air Pollution Control District'' was renamed the ''Louisville Metro Air Pollution Control District.'' However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading ''Air Pollution Control District of Jefferson County.'' Thus, to be consistent with the terminology used in the SIP, EPA refers throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the ''Jefferson County'' regulations.

[2] The District refers to the revised version of Regulation 3.01 in its December 21, 2016, submittal as ''Version 6'' and the revised version of Regulation 3.01 in its August 29, 2017, submittal as ''Version 7.'' Upon EPA's final approval of changes to Regulation 3.01, the text of the regulation in the SIP will reflect Version 7.

million (ppm) to 0.070 ppm. Accordingly, in the December 21, 2016, SIP submittal, the District revised Regulation 3.01, *Ambient Air Quality Standards,* to update the primary and secondary air quality standards for ozone to be consistent with the NAAQS that were promulgated by EPA in 2015. EPA has reviewed this change to the Jefferson County regulation for ozone and has made the determination that this change is consistent with federal regulations.

In addition to the revision of air quality standards in Section 7 of Regulation 3.01, the August 29, 2017, SIP submittal included minor formatting changes to Regulation 3.01: Removal of the numbering of the subsections in Section 7; and textual modifications to the footnotes which abbreviate them but do not change their meaning. EPA has determined that these are administrative changes that are consistent with the requirements of the CAA.

III. Incorporation by Reference

In this rule, 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, EPA is proposing to incorporate by reference Jefferson County Regulation 3.01, *Ambient Air Quality Standards,* effective September 21, 2016, and February 15, 2017, which was revised to be consistent with the current NAAQS. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the Commonwealth of Kentucky December 21, 2016, and August 29, 2017, SIP revisions identified in section II above, because these changes are consistent with the CAA.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 29, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2018–02464 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0642; FRL–9974–02–Region 4]

Air Plan Approval; AL; Section 128 Board Requirements for Infrastructure SIPs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) submission, submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), on October 24, 2017. This submission addresses the Clean Air Act (CAA or Act) requirements applicable to Alabama state boards or agency personnel with respect to the approval of permits or enforcement orders. The submission also specifically addresses requirements for implementation of the following national ambient air quality standards (NAAQS): 1997, 2006, and 2012 Fine Particulate Matter ($PM_{2.5}$), 2008 8-hour Ozone, 2008 Lead, 2010 Nitrogen Dioxide (NO_2), and 2010 Sulfur Dioxide (SO_2). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA. Whenever EPA promulgates a new or revised NAAQS, the CAA requires the state to make a new SIP submission establishing that the existing SIP meets the various applicable requirements, or revising the SIP to meet those requirements. This type of SIP submission is commonly referred to as an ''infrastructure'' SIP. In this proposed action, EPA is proposing to approve the October 24, 2017, submission with respect to: (1) The requirements applicable to state boards of the CAA; and (2) the related state board infrastructure SIP requirements for the 1997, 2006, and 2012 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS. In addition, EPA is proposing approval of ADEM's

December 9, 2015, infrastructure SIP submission (as supplemented by the October 24, 2017 submission) related to the state board requirements for the 2012 $PM_{2.5}$ NAAQS. If this proposed approval action is finalized, EPA will no longer be required to promulgate a federal implementation plan (FIP) to address these CAA state board requirements for Alabama, as described in more detail below.

DATES: Comments must be received on or before March 12, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0642 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

By statute, states are required to have SIPs that provide for the implementation, maintenance, and enforcement of the NAAQS. States are further required to make a SIP submission meeting the applicable requirements of sections 110(a)(1) and (2) within three years after EPA promulgates a new or revised NAAQS.[1] EPA has historically referred to this type of SIP submission as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIP submissions. Section 110(a)(2) lists specific elements that states must meet to satisfy the ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's existing EPA approved SIP at the time when the state develops and submits the infrastructure SIP submission for a new or revised NAAQS.

This action pertains to one of the requirements of section 110(a)(2) that is relevant in the context of a state's development, and EPA's evaluation of, infrastructure SIP submissions. Section 110(a)(2)(E)(ii) of the CAA requires states to have SIPs that contain provisions that comply with certain specific requirements respecting state boards or bodies or heads of state agencies provided in CAA section 128. Section 128 of the CAA requires that states include provisions in their SIP that (1) require that any state board or body which approves permits or enforcement orders shall have a majority of members who represent the public interest and do not receive a significant portion of their income from parties subject to permits or enforcement (section 128(a)(1)); and (2) require that the members of any such board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to adequate conflict of interest disclosure requirements (section 128(a)(2)).

Alabama previously made infrastructure SIP submissions for a number of recently revised NAAQS. With the exception of the state board requirements of section 110(a)(2)(E)(ii) of the CAA, EPA has already approved or will consider in separate actions all other elements of Alabama's infrastructure SIP submissions related to the 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, 2010 SO_2, and 1997, 2006, and 2012 $PM_{2.5}$ NAAQS. At the time of those infrastructure SIP submissions, however, the Alabama SIP did not include provisions to meet the requirements of section 128, and thus these submissions did not meet the requirements of section 110(a)(2)(E)(ii) of the CAA. Therefore, EPA took final action to disapprove Alabama's infrastructure SIP submissions as they pertained to the conflict of interest requirements of section 128 and section 110(a)(2)(E)(ii), for the 1997 and 2006 $PM_{2.5}$ NAAQS on October 15, 2012 (77 FR 62449), the 2008 8-hour Ozone NAAQS on April 2, 2015 (80 FR 17689), the 2008 Lead NAAQS on October 9, 2015 (80 FR 61111), the 2010 NO_2 NAAQS on November 21, 2016 (81 FR 83142), and the 2010 SO_2 NAAQS on January 12, 2017 (82 FR 3637). Under section 110(c)(1)(B), these disapprovals started a two-year clock for EPA to promulgate a FIP to address the deficiency. EPA did not take action on this element for the 2012 $PM_{2.5}$ NAAQS.[2]

In order to address the requirements of section 128, and thus the requirements of section 110(a)(2)(E)(ii), Alabama made the October 24, 2017, SIP submission to revise the existing SIP in order to include the necessary SIP provisions. Through this action, EPA is proposing approval of Alabama's SIP revision to incorporate into its SIP certain regulatory provisions to address the state board requirements of section 128. More detail on how Alabama's SIP revision meets these requirements is provided below. As a result of the addition of these new SIP provisions to meet the requirements of section 128, EPA is also proposing approval of this submission as satisfying the section 110(a)(2)(E)(ii) infrastructure element for the 1997, 2006 and 2012 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS. The approvals

[1] EPA has long noted that a literal reading of the statutory provision to meet all requirements of 110(a)(2) on the schedule provided in 110(a)(1) would create a conflict with the nonattainment provisions in part D of Title I of the CAA, which specifically address nonattainment area SIP requirements. See, *e.g.,* ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013 at 4. For example, section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. The provisions in section 172(b) for submission of such plans for nonattainment areas differ from the timing requirements for an infrastructure SIP submission under 110(a)(1).Thus, rather than applying all the stated requirements of section 110(a)(2) in a strict, literal sense, EPA has determined that certain provisions like 110(a)(2)(I) of section 110(a)(2) are not applicable to infrastructure SIP submissions.

[2] ADEM submitted its infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS on December 9, 2015.

proposed herein would fully address the SIP deficiencies from EPA's prior disapprovals for the 1997 and 2006 $PM_{2.5}$ NAAQS on October 15, 2012 (77 FR 62449), 2008 8-hour Ozone NAAQS on April 2, 2015 (80 FR 17689), 2008 Lead NAAQS on October 9, 2015 (80 FR 61111), 2010 NO_2 NAAQS on November 21, 2016 (81 FR 83142), and 2010 SO_2 NAAQS on January 12, 2017 (82 FR 3637). Thus, if EPA finalizes this proposed approval, this will resolve the prior disapprovals for element 110(a)(2)(E)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS, the 2008 Ozone NAAQS, the 2008 lead NAAQS, the 2010 NO_2, and the 2010 SO_2 NAAQS, and terminate EPA's FIP obligation with regard to that element for these NAAQS.

A brief background regarding each NAAQS relevant to this action is provided below. For comprehensive information on these NAAQS, please refer to the **Federal Register** rulemakings cited below.

a. 1997 and 2006 $PM_{2.5}$ NAAQS

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA also established a 24-hour NAAQS of 65 μg/m³. *See* 40 CFR 50.7. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a new 24-hour NAAQS of 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. States were required to submit infrastructure SIPs to EPA no later than July 2000 for the 1997 annual $PM_{2.5}$ NAAQS, and no later than October 2009 for the 2006 24-hour $PM_{2.5}$ NAAQS.

b. 2008 8-Hour Ozone NAAQS

On March 27, 2008, EPA promulgated a revised NAAQS for ozone based on 8-hour average concentrations. EPA revised the level of the 8-hour ozone NAAQS to 0.075 parts per million. *See* 77 FR 16436. States were required to submit infrastructure SIP submissions for the 2008 8-hour Ozone NAAQS to EPA no later than March 2011.

c. 2008 Lead NAAQS

On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the Lead NAAQS. The Lead NAAQS was revised to 0.15 μg/m³. States were required to submit infrastructure SIP submissions to EPA no later than October 15, 2011, for the 2008 Lead NAAQS.

d. 2010 NO_2 NAAQS

On February 9, 2010 (75 FR 6474), EPA established a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. States were required to submit infrastructure SIP submissions for the 2010 NO_2 NAAQS to EPA no later than January 2013.

e. 2010 SO_2 NAAQS

On June 22, 2010 (75 FR 35520), EPA promulgated a revised primary SO_2 NAAQS to an hourly standard of 75 ppb based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. States were required to submit infrastructure SIPs for the 2010 1-hour SO_2 NAAQS to EPA no later than June 22, 2013.

f. 2012 $PM_{2.5}$ NAAQS

On December 14, 2012, EPA revised the primary annual $PM_{2.5}$ NAAQS to 12.0 μg/m³. *See* 78 FR 3086 (January 15, 2013). An area meets the standard if the three-year average of its annual average $PM_{2.5}$ concentration (at each monitoring site in the area) is less than or equal to 12.0 μg/m³. States were required to submit infrastructure SIP submissions for the 2012 $PM_{2.5}$ NAAQS to EPA no later than December 14, 2015.

II. What is EPA's analysis of how Alabama addressed the state board requirements of section 128?

On October 24, 2017, Alabama submitted a SIP submission to include SIP provisions to address the requirements of CAA section 128, and thereby to meet the related infrastructure SIP requirements of section 110(a)(2)(E)(ii). The October 24, 2017, SIP submission includes changes to rules 335–1–1–.03 and 335–1–1–.04 of ADEM's Administrative Code for Division 1 to incorporate into Alabama's SIP certain conflict of interest provisions that apply to the boards, bodies and executive agency personnel with approval authority for CAA permits and enforcement. Rule 335–1–1–.03, *Organization and Duties of the Commission,* is amended to include language for incorporation into the SIP mandating that members of the Alabama Environmental Management Commission (EMC) meet all requirements of the state ethics law and the conflict of interest provisions of applicable Federal laws, which includes section 128. Rule 335–1–1–.04, *Organization of the Department* is amended to include language for incorporation into the SIP mandating that the ADEM Director, Deputy Director, Division Chiefs, and all ADEM personnel meet all requirements of the state ethics law and the conflict of interest provisions of applicable Federal laws, which includes section 128. ADEM and the EMC are the entities that have the authority to issue and approve CAA permits and enforcement orders. The ADEM Air Director has the authority to approve permits and enforcement orders for Alabama. In the case of appeal, permits and enforcement orders are sent to the EMC and the EMC has final approval authority.

If a state has a board or body that approves CAA permits or enforcement orders, section 128(a)(1) requires that a majority of such board or body represent the public interest and not derive a significant portion of income from persons subject to such permits and enforcement orders.[3] Under section 128(a)(2), the members of any such board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, are required to disclose any potential conflict of interest adequately.

In 1978, EPA issued guidance recommending potential ways that states might elect to meet the requirements of section 128, including suggested interpretations of key terms.[4] In this guidance, EPA recognized that states may have a variety of procedures and special concerns that may warrant differing approaches to implementation of section 128 and made clear that the guidance does not create a requirement that all SIPs must include the suggested definitions verbatim, or that definitions per se must be included in SIPs. EPA provided further guidance with respect to these statutory requirements in its 2013 infrastructure guidance.[5] In the 2013 guidance, EPA clarified that provisions to implement section 128 need to be contained within the SIP. Therefore, EPA will not approve an infrastructure SIP submission that addresses the requirements of section 128 only by providing a narrative

[3] EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' provides that SIPs are only required to meet the section 128(a)(1) majority requirements if the state has a multi-member board or body with CAA permit or order approval authority.

[4] ''Guidance to States for Meeting Conflict of Interest Requirements of Section 128,'' Memorandum from David O. Bickart, Deputy General Counsel, to Regional Air Directors, March 2, 1978.

[5] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

description or references existing state laws or requirements that are not contained within the SIP. EPA has also provided certain interpretations of the statutory requirements of section 128 in its actions on infrastructure SIP submissions from various states, based on the facts and circumstances of those actions.[6] In several actions, EPA has approved state law requirements that closely track or mirror the explicit statutory language of section 128.[7]

The legislative history of the 1977 amendments to the CAA also indicates that states have some flexibility to determine the specific provisions needed to satisfy the requirements of section 128, so long as the statutory requirements are met.[8] Also, section 128 explicitly provides that states may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of paragraphs (1) and (2), and that the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.

EPA is proposing to approve Alabama's October 24, 2017 SIP submission as meeting the requirements of section 128 because we believe it complies with the statutory requirements and is consistent with EPA's guidance. The State has submitted certain regulatory provisions for incorporation into its SIP, and these provisions explicitly require the EMC and ADEM personnel with CAA permit or order approval authority to comply with applicable federal conflict interest laws and regulations. As explained in the submission, these provisions encompass the majority composition and income requirements of section 128(a)(1) for the multi-member EMC and the conflict of interest disclosure requirements of section 128(a)(2) for both the EMC members and the ADEM Director and designees.

As noted above, EPA has determined that state requirements that closely track or mirror the section 128 requirements satisfy CAA requirements. Likewise, EPA believes state law provisions that cross reference or incorporate these federal conflict of interest requirements satisfy the requirements of the CAA. With the incorporation of these specific regulatory requirements to comply with the relevant CAA requirements into the SIP, EPA believes that Alabama will meet the requirements of section 128 of the CAA.

III. What is EPA's analysis of how Alabama addressed the requirements of section 110(a)(2)(E)(ii)?

The State also specifically submitted the October 24, 2017, submission to address the infrastructure requirements of section 110(a)(2)(E)(ii), and the related section 128 requirements, for the 1997, 2006, and 2012 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS. Section 110(a)(2)(E)(ii) of the CAA requires states to have SIP provisions that comply with the requirements of CAA section 128. Because EPA is proposing to approve provisions into Alabama's SIP to meet the requirements of section 128 as discussed above, it is also proposing to approve the SIP submission with respect to the related requirements of section 110(a)(2)(E)(ii) for the NAAQS previously mentioned. EPA notes that section 128 is not NAAQS-specific, and thus once a state has met the requirements of section 128 it will continue to do so for purposes of future NAAQS, unless the state makes any changes to the approved SIP provisions, in which case the changed provisions may require further evaluation to ensure that they still meet the requirements of section 128.

For the 2012 $PM_{2.5}$ NAAQS, ADEM submitted an infrastructure SIP submission on December 9, 2015, to address the state board requirements of section 110(a)(2)(E)(ii). EPA has already approved, or will consider in separate actions, all other infrastructure SIP elements for the 2012 $PM_{2.5}$ NAAQS, but has not taken any prior action on the December 9, 2015 submission for section 110(a)(2)(E)(ii). With the SIP revision to address sections 128 and 110(a)(2)(E)(ii) in the December 24, 2017 submission, EPA is proposing to approve the December 9, 2015 submission for purposes of section 110(a)(2)(E)(ii) in this action.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference ADEM's Rule 335–1–1–.03, *Organization and Duties of the Commission* and Rule 335–1–1–.04, *Organization of the Department,* effective December 8, 2017, which revise Alabama's SIP to include language that mandates members of the Alabama Environmental Management Commission and the ADEM Director, Deputy Director, Division Chiefs and all ADEM personnel meet all requirements of the state ethics law and the conflict of interest provisions of applicable Federal laws and regulations. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

As described above, EPA is proposing to approve that Alabama's SIP meets the state board requirements of 128 of the CAA, and is proposing to approve that the Alabama SIP meets the requirements for the section 110(a)(2)(E)(ii) for the 2012 $PM_{2.5}$ NAAQS. In this action, EPA is also proposing to conclude that, if Alabama's October 24, 2017, SIP revision is approved, the section 110(a)(2)(E)(ii) requirements are met for the 1997 and 2006 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS. Consequently, if EPA finalizes approval of this action, the deficiencies identified in the previous partial disapprovals of Alabama's infrastructure SIP submissions related to the state board requirements for the 1997 and 2006 $PM_{2.5}$, 2008 8-hour Ozone, 2008 Lead, 2010 NO_2, and 2010 SO_2 NAAQS will be cured.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive 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.

[6] *Id.* at 43–44.

[7] *See, e.g.,* EPA proposed rule on Montana's SIP/infrastructure requirements, 81 FR 4225, 4233, finalized at 81 FR 23180; EPA's final approval of Georgia's infrastructure requirements, 77 FR 65125, proposed at 77 FR 35909.

[8] Specifically, the conference committee for the 1977 amendments stated that ''it is the responsibility of each state to determine the specific requirements to meet the general requirements of [section 128].'' H.R. Rep. 95–564 (1977), reprinted in *Legislative History of the Clean Air Act Amendments of 1977,* 526–527 (1978).

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: January 25, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2018–02146 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2011–0941; FRL–9973–02]

RIN 2070–AB27

Modification of Significant New Use of a Certain Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for Oxazolidine, 3,3′-methylenebis[5-methyl-, which was the subject of a premanufacture notice (PMN) and a significant new use notice (SNUN). This action would amend the SNUR to allow certain new uses reported in the SNUN without requiring additional SNUNs and make the lack of certain worker protections a new use. EPA is proposing this amendment based on review of new and existing data as described for the chemical substance. A SNUR requires persons who intend to manufacture (including import) or process this chemical substance for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use would be unable to commence until EPA conducted a review of the notice, made an appropriate determination on the notice, and took such actions as are required with that determination.

DATES: Comments must be received on or before February 23, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2011–0941, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

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

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substance contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

• Manufacturers or processors of the chemical substance (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a modified SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of a final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

Because TSCA now requires EPA to make determinations for all SNUNs and the Lautenberg Act includes other changes applying to section 5 submissions, the appropriateness of the advance compliance provision in § 721.45(h) is questionable. Therefore, the Agency would suspend the applicability of the provision for these significant new uses, and will pursue a resolution of the issue.

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. What action is the agency taking?

EPA is proposing amendments to the SNUR for the chemical substance in 40 CFR 721.10461. This proposed action would require persons who intend to manufacture or process this chemical substance for an activity that is designated as a significant new use by this amended rule to notify EPA at least 90 days before commencing that activity. The required notification would initiate EPA's evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use would be unable to commence until EPA conducted a review of the notice, made an appropriate determination on the notice, and took such actions as are required with that determination.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors, listed in Unit III. of this document. Once EPA determines that a use of a chemical substance is a significant new use and promulgates a SNUR, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, (but see discussion in Unit II.A. of advance compliance under 40 CFR 721.45(h)), and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720.

Once EPA receives a SNUN, EPA must make a determination under TSCA section 5(a)(3). If EPA determines that the new use, under the conditions of use, is not likely to present unreasonable risk of injury to health or the environment, the submitter of the SNUN may immediately commence manufacture or processing for the new use. Otherwise, EPA must take regulatory action under TSCA section 5(e) or 5(f) to control the activities for which it has received the SNUN.

D. Effective Date of Final Rule

EPA proposes to make the final rule effective 15 days after publication. There is good cause for a 15-day effective period, because the rule largely relieves a restriction, and because the SNUR modification pertains only to new uses, there are no persons who need time to adjust existing operations.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

In EPA's determination of the appropriate modification of the scope of the existing significant new use for the chemical substance that is the subject of this SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substance Subject to a Proposed Significant New Use Rule Amendment

EPA is proposing to amend the significant new use and recordkeeping requirements for one chemical substance in 40 CFR part 721 Subpart E. In this unit, EPA provides the following information for the chemical substance:

- PMN number and SNUN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) number (if assigned for non-confidential chemical identities).
- **Federal Register** publication date and reference for the final SNUR previously issued.
- Basis for the Proposed Amendment.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

PMN Number P–03–325 and SNUN Number S–17–4

Chemical name: Oxazolidine, 3,3′-methylenebis[5-methyl-

CAS number: 66204–44–2.

Federal Register *publication date and reference:* September 21, 2012 (77 FR 58666) (FRL–9357–2).

Basis for the modified significant new use rule: The PMN stated that the use of the chemical substance is as a metalworking fluid. The original SNUR

was issued based on meeting the concern criteria at § 721.170(b)(3)(i), (b)(4)(i), and (b)(ii). EPA identified concerns for toxicity to aquatic organisms at concentrations exceeding 40 and 100 parts per billion (ppb) in surface waters, salt and fresh, respectively. EPA also identified concerns for systemic toxicity and severe skin and eye irritation. The original SNUR required notification if the chemical substance was used other than as a metalworking fluid and involving environmental releases during manufacture, processing or use that would result in surface water concentrations exceeding a concentration of 40 ppb in surface saltwater or 100 ppb in freshwater.

On April 12, 2017 EPA received a SNUN, S–17–4 for the chemical substance for the significant new use as an anti-corrosive agent in oilfield operations and hydraulic fluids. The 90-day review period for the SNUN expired on October 30, 2017. Based on the activities described in the SNUN, a consent order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the substance may present an unreasonable risk of injury to human health and the environment.

EPA identified concerns, based on test data on the substance and on new data regarding the expected release of formaldehyde from the substance, for skin and eye irritation, neurotoxicity, mutagenicity, oncogenicity, allergic responses, and developmental toxicity. In addition to the existing water release notification requirements under the SNUR, the Consent Order for S–17–4 requires the SNUN submitter to provide personal protective equipment and respirators to workers to prevent dermal and inhalation exposure, refrain from unloading, processing, or using the substance without using enclosed equipment or systems, label containers and provide worker training, and use the substance only as an anti-corrosive agent in oilfield operations and hydraulic fluids and as a metalworking fluid. The modified SNUR proposes to designate as a ''significant new use'' the absence of these protective measures.

Recommended testing: The results of a formaldehyde release assay (ASTM D5197 or ISO 16000–3) would help characterize the health effects of the chemical substance.

CFR citation: 40 CFR 721.10461.

V. Rationale for the Proposed Rule

During review of the PMN and SNUN submitted for the chemical substance that is the subject of this proposed SNUR, EPA identified concerns, as discussed in Unit IV, associated with reasonably foreseen changes from the conditions of use identified in the PMN and the requirements of the consent order for the SNUN. EPA determined that those changes could result in changes in the type or form of exposure to the chemical substance and/or increased exposures to the chemical substance and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substance.

VI. Applicability of the Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. EPA solicits comments on whether any of the uses proposed as significant new uses are ongoing. EPA designates February 8, 2018 as the cutoff date for determining whether the new use is ongoing. EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of public release of the proposed SNUR rather than as of the effective date of the final rule. If uses begun after public release were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became effective, and then argue that the use was ongoing as of the effective date of the final rule.

Thus, any persons who begin commercial manufacture or processing activities with the chemical substance that are not currently a significant new use under the current rule but which would be regulated as a ''significant new use'' if this proposed rule is finalized, must cease any such activity as of the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. There is an exception: TSCA section 5(b)(1) requires development of test data where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (15 U.S.C. 2603).

In the absence of a rule, order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists recommended testing for the subject proposed listed SNUR. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

The recommended testing specified in Unit IV. of the proposed rule may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E–PMN software is available electronically at *https://*

www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.

IX. Economic Analysis

EPA evaluated the potential costs of SNUN requirements for potential manufacturers and processors of the chemical substances in the proposed rule. The Agency's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2011–0941.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This proposed action would modify a SNUR for a chemical substance that was the subject of a PMN and a SNUN. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA, 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUN submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This proposed rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit IX. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this proposed rule. As such, EPA has determined that this rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''*Federalism*'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''*Consultation and Coordination with Indian Tribal Governments*'' (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''*Protection of Children from Environmental Health Risks and Safety Risks*'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*'' (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 24, 2018.

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.10461 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2).
■ c. Revise paragraph (b)(1).
■ d. Add paragraph (b)(3).

The additions and revisions read as follows:

§ 721.10461 Oxazolidine, 3,3′-methylenebis[5-methyl-.

(a) * * *

(1) The chemical substance identified as oxazolidine, 3,3′-methylenebis[5-methyl- (PMN P–03–325 and SNUN S–17–4; CAS No. 66204–44–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (3), (4) (use of the respirator only applies to inhalation exposures to the substance when manufactured in the United States), when determining which persons are reasonably likely to be exposed as required for § 721.63 (a)(1) and (4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(5) (respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000), (a)(6)(v), (vi), (b) (concentration set at 0.1 percent), and (c). It is a significant new use for the substance to be unloaded, processed and used other than with fully enclosed equipment.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b) (concentration set at 0.1 percent), (c), (d), (f), (g)(1)(allergic or sensitization response), (ii), (iii), (v), (vi), (ix), (2)(i), (ii), (iii), (v), (iv), (3)(i), (ii), (4) (do not release to water such that concentrations exceed 40 or 100 ppb in saltwater or freshwater, respectively), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System (GHS) and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is use other than as a metalworking fluid and an anti-corrosive agent in oilfield operations and hydraulic fluids.

(iv) *Release to water:* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N = 40 (saltwater) and N = 100 (freshwater)).(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

* * *

(3) *Advance compliance.* The provisions of § 721.45(h) do not apply to significant new uses to which this section applies.

[FR Doc. 2018–02461 Filed 2–7–18; 8:45 am]

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Notices

Federal Register
Vol. 83, No. 27
Thursday, February 8, 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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Kansas Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold a meeting on Thursday, February 22, 2018 at 12 p.m. Central time. The Committee will hear testimony from school administrators in the state as part of their current study on civil rights and school funding.

DATES: The meeting will take place on Thursday, February 22, 2018 at 12 p.m. Central time.

Public Call Information: (audio only) Dial: 877–723–9522, Conference ID: 5306689.

Web Access Information: (visual only) *https://cc.readytalk.com/r/cficj5aa0ias&eom.*

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number (audio only) and web access link (visual only). Please use both the call in number and the web access link in order to fully access the meeting.

An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Kansas Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=249*). Click on ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Introduction
Panel Testimony: Civil Rights and School Funding in Kansas
Public Comment
Adjournment

Dated: February 3, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–02500 Filed 2–7–18; 8:45 am]

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COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Texas Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that meetings of the Texas Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Central Time), Wednesday February 14, 2018; 4:00 p.m. (Central Time) Wednesday, February 28, 2018; and 1:00 p.m. (Central Time), Wednesday March 7, 2018. The purpose of these meetings is for the Committee to continue planning for their voting rights briefing.

DATES: These meetings will be held on Wednesday February 14, 2018 at 1:00 p.m.; Wednesday, February 28, 2018 at 4:00 p.m.; and Wednesday March 7, 2018 at 1:00 p.m. Central Time.

Public Call Information:

Dial: 866–290–0883.
Conference ID: 8956350.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: These meetings are available to the public through the following toll-free call-in number: 866–290–08833, conference ID number: 8956350. Any interested member of the public may call this number and listen to the meetings. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meetings.

Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meetings will be available for public viewing prior to and after the meetings at *https://facadatabase.gov/committee/meetings.aspx?cid=276.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approve minutes from previous meeting date
III. Discuss Potential Panelists
IV. Discuss Publicity
V. Public Comment
VI. Next Steps
VII. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for the February 14, 2018, meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of this Committee doing work on the FY 2018 statutory enforcement report.

Dated: February 3, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–02499 Filed 2–7–18; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–23–2018]

Foreign-Trade Zone 44—Morris County, New Jersey; Application for Subzone; Distrilogik US Ltd.; Dayton, New Jersey

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the State of New Jersey, Department of State, grantee of FTZ 44, requesting subzone status for the facility of Distrilogik US Ltd., located in Dayton, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on February 2, 2018.

The proposed subzone (4.31 acres) is located at 2351 US Highway 130, Dayton, New Jersey. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 44.

In accordance with the Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 20, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 4, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: February 5, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–02514 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967]

Aluminum Extrusions From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review in Part; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on aluminum extrusions from the People's Republic of China (China). The period of review (POR) is May 1, 2016, through April 30, 2017. Mandatory respondents were selected, but all requests for administrative review for the mandatory respondents were subsequently timely withdrawn. Commerce preliminarily determines that none of the 29 companies for which an administrative review was requested, and not withdrawn, demonstrated eligibility for a separate rate, and are, therefore, all part of the China-wide entity. For the 191 companies for which all requests for administrative review have been timely withdrawn, we rescind this administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 8, 2018.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Mark Flessner, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2657 or (202) 482–6312, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2017, Commerce published the notice of initiation of the administrative review of the AD order on aluminum extrusions from China [1] for the period May 1, 2016, through April 30, 2017, covering 220 companies.[2] All requests for administrative review were timely withdrawn with regard to 191 companies (listed in Appendix II to this notice), leaving 29 companies subject to administrative review.[3] For a complete description of the events that followed the initiation of this administrative

[1] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) (the *Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 31292, 31294 (July 6, 2017) (*Initiation Notice*); *see also* Petitioner Letter re: Aluminum Extrusions from the People's Republic of China: Request for Administrative Review, dated May 31, 2017; *see also* Regal Letter re: Aluminum Extrusions from the People's Republic of China: Request for Administrative Review, dated May 31, 2017.

[3] *See* Petitioner Letter re: Aluminum Extrusions from the People's Republic of China: Withdrawal of Request for Administrative Review, dated October 4, 2017. Although the petitioner withdrew its requests for an administrative review of Guangdong Xin Wei Aluminum Products Co., Ltd., and Xin Wei Aluminum Company Limited, because an administrative review of these companies was also requested by Regal, a request for an administrative review remains in place for 29 companies.

review, *see* the Preliminary Decision Memorandum.[4]

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's AD and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content. A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice.

Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now February 5, 2018.[5]

Scope of the Order

The merchandise covered by the *Order* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).[6]

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.[7]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary results of review, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, petitioner timely withdrew its request for an administrative review for certain companies. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to 191 of the 220 companies named in the *Initiation Notice.*[8] *See* Appendix II for a list of these companies.[9]

Separate Rates

In the *Initiation Notice,* we informed parties of the opportunity to request a separate rate.[10] In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the NME country are subject to government control and, thus, should be assigned a single weighted-average dumping margin. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Companies that wanted to qualify for separate rate status in this administrative review were required to timely file, as appropriate, a separate rate application (SRA) or a separate rate certification (SRC) to demonstrate their eligibility for a separate rate. SRAs and SRCs were due to Commerce within 30 calendar

[4] *See* Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China; 2016–2017,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[6] *See* Preliminary Decision Memorandum for a complete description of the scope of the *Order.*

[7] *See* the *Order.*

[8] *See Initiation Notice,* 82 FR at 31294–31297.

[9] *See* Preliminary Decision Memorandum for further details.

[10] *See Initiation Notice,* 82 FR at 31293.

days of the publication of the *Initiation Notice.*[11]

Of the companies for which an administrative review was requested, and not withdrawn, none submitted an SRA, SRC, or certification of no shipments. Therefore, no company for which a request for administrative review remains in place has demonstrated that it is entitled to a separate rate. We, therefore, preliminarily determine that the following companies are not eligible for a separate rate in this administrative review: (1) Activa International Inc.; (2) Atlas Integrated Manufacturing Ltd.; (3) Belton (Asia) Development Ltd.; (4) Belton (Asia) Development Limited; (5) Changzhou Tenglong Auto Parts Co., Ltd.; (6) Changzhou Tenglong Auto Accessories Manufacturing Co. Ltd.; (7) Changzhou Tenglong Auto Parts Co Ltd; (8) China Square; (9) China Square Industrial Co.; (10) China Square Industrial Ltd; (11) Daya Hardware Co Ltd; (12) ETLA Technology (Wuxi) Co. Ltd; (13) Global Hi-Tek Precision Co. Ltd; (14) Guangdong Whirlpool Electrical Appliances Co., Ltd.; (15) Guangdong Xin Wei Aluminum Products Co., Ltd.; (16) Guangdong Zhongya Aluminium Company Limited; (17) Henan New Kelong Electrical Appliances Co., Ltd.; (18) Liaoning Zhongwang Group Co., Ltd.; (19) Liaoyang Zhongwang Aluminum Profile Co. Ltd.; (20) Midea International Training Co., Ltd.; (21) Midea International Trading Co., Ltd.; (22) Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.; (23) Sincere Profit Limited; (24) Summit Heat Sinks Metal Co, Ltd; (25) USA Worldwide Door Components (PINGHU) Co., Ltd.; (26) Whirlpool Canada L.P.; (27) Whirlpool Microwave Products Development Ltd.; (28) Xin Wei Aluminum Co. Ltd.; and (29) Xin Wei Aluminum Company Limited.[12]

China-Wide Entity

We preliminarily find that the 29 companies listed above are part of the China-wide entity in this administrative review because they failed to submit an SRA, SRC, or certification of no shipments.

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[13] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in the instant review, the entity is not under review, and the entity's current rate, *i.e.,* 86.01 percent,[14] is not subject to change.

Adjustments for Countervailable Subsidies

Because no company established eligibility for an adjustment under section 777A(f) of the Act for countervailable domestic subsidies, for these preliminary results, Commerce did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for separate-rate recipients. Furthermore, because the China-wide entity is not under review, we made no adjustment for countervailable export subsidies for the China-wide entity pursuant to section 772(c)(1)(C) of the Act.

Disclosure and Public Comment

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary results within five days of the public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce did not calculate weighted-average dumping margins for any companies in this review, nor for the China-wide entity, there is nothing further to disclose. This meets our regulatory obligation.

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[15] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs are filed.[16] Parties who submit case or rebuttal briefs in this review are requested to submit with each argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[17]

Any interested party may request a hearing within 30 days of publication of this notice.[18] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[19]

All submissions, with limited exceptions, must be filed electronically using ACCESS.[20] An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[21]

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in any briefs received, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP shall assess, AD duties on all appropriate entries covered by this review.[22] Commerce intends to issue assessment instructions to CBP 15 days after publication of the final results of this review.

We intend to instruct CBP to liquidate entries containing subject merchandise exported by the China-wide entity at the China-wide rate. Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the China-wide rate.[23]

For the companies for which this review is rescinded, AD duties shall be assessed at rates equal to the cash deposit of estimated AD duties required at the time of entry, or withdrawal from warehouse, for consumption, in

[11] *Id.*

[12] *See* Preliminary Decision Memorandum at 9–11.

[13] *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, 65970 (November 4, 2013).

[14] *See Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 52265, 52267 (November 13, 2017).

[15] *See* 19 CFR 351.309(c)(1)(ii).

[16] *See* 19 CFR 351.309(d).

[17] *See* 19 CFR 351.309(c)(2) and (d)(2).

[18] *See* 19 CFR 351.310(c).

[19] *See* 19 CFR 351.310(d).

[20] *See generally* 19 CFR 351.303.

[21] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[22] *See* 19 CFR 351.212(b)(1).

[23] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP for those companies 15 days after publication of this notice.

Cash Deposit Requirements

The following cash deposit requirements for estimated AD duties, when imposed, will apply to all shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) If the companies preliminarily determined to be eligible for a separate rate receive a separate rate in the final results of this administrative review, their cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review, as adjusted for domestic and export subsidies (except, if that rate is *de minimis,* then the cash deposit rate will be zero); (2) for any previously investigated or reviewed Chinese and non-Chinese exporters that are not under review in this segment of the proceeding but that received a separate rate in the most recently completed segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity; (4) for the China-wide entity, the cash deposit rate will be 86.01 percent; and (5) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of AD duties occurred and the subsequent assessment of double AD duties.

Notification to Interested Parties

We are issuing and publishing notice of these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: January 26, 2018.

Prentiss Lee Smith,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Respondent Selection
V. Rescission of Administrative Review, in Part
VI. NME Country
VII. Separate Rates
VIII. The China-Wide Entity
IX. Adjustments for Countervailable Subsidies
X. Conclusion

Appendix II—Companies for Which This Administrative Review Is Being Rescinded

1. Acro Import and Export Co.
2. Activa Leisure Inc.
3. Allied Maker Limited
4. Alnan Aluminium Ltd.
5. Alnan Aluminum Co., Ltd.
6. Aluminicaste Fundicion de Mexico
7. AMC Limited
8. AMC Ltd.
9. Anji Chang Hong Chain Manufacturing
10. Aoda Aluminium (Hong Kong) Co., Limited
11. Birchwoods (Lin'an) Leisure Products Co., Ltd.
12. Bolnar Hong Kong Ltd.
13. Bracalente Metal Products (Suzhou) Co., Ltd.
14. Changshu Changshen Aluminum Products Co., Ltd.
15. Changshu Changsheng Aluminium Products Co., Ltd.
16. Changzhou Changzhen Evaporator Co., Ltd.
17. Changzhou Changzheng Evaporator Co., Ltd.
18. China Zhongwang Holdings, Ltd.
19. Chiping One Stop Industrial & Trade Co., Ltd.
20. Classic & Contemporary Inc.
21. Clear Sky Inc.
22. Cosco (J.M.) Aluminium Co., Ltd.
23. Dalian Huacheng Aquatic Products
24. Dalian Liwang Trade Co., Ltd.
25. Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.
26. Dongguan Aoda Aluminum Co., Ltd.
27. Dongguan Dazhan Metal Co., Ltd.
28. Dongguan Golden Tiger Hardware Industrial Co., Ltd.
29. Dragonluxe Limited
30. Dynabright Int'l Group (HK) Limited
31. Dynamic Technologies China Ltd.
32. Ever Extend Ent. Ltd.
33. Fenghua Metal Product Factory
34. First Union Property Limited
35. FookShing Metal & Plastic Co. Ltd.
36. Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone
37. Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.
38. Foshan Golden Source Aluminum Products Co., Ltd.
39. Foshan Guangcheng Aluminium Co., Ltd
40. Foshan Jinlan Aluminum Co. Ltd.
41. Foshan JinLan Aluminum Co., Ltd.
42. Foshan JMA Aluminum Company Limited
43. Foshan Sanshui Fenglu Aluminium Co., Ltd.
44. Foshan Shunde Aoneng Electrical Appliances Co., Ltd
45. Foshan Yong Li Jian Aluminum Co., Ltd.
46. Fujian Sanchuan Aluminum Co., Ltd.
47. Fuzhou Sunmodo New Energy Equipment
48. Genimex Shanghai, Ltd.
49. Global PMX Dongguan Co., Ltd.
50. Global Point Technology (Far East) Limited
51. Gold Mountain International Development, Ltd.
52. Golden Dragon Precise Copper Tube Group, Inc.
53. Gran Cabrio Capital Pte. Ltd.
54. Gree Electric Appliances
55. GT88 Capital Pte. Ltd.
56. Guang Ya Aluminium Industries Co., Ltd.
57. Guang Ya Aluminum Industries Company Ltd
58. Guang Ya Aluminium Industries (Hong Kong) Ltd.
59. Guangcheng Aluminum Co., Ltd
60. Guangdong Hao Mei Aluminium Co., Ltd.
61. Guangdong Jianmei Aluminum Profile Company Limited
62. Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.
63. Guangdong Midea
64. Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.
65. Guangdong Weiye Aluminum Factory Co., Ltd.
66. Guangdong Xingfa Aluminium Co., Ltd.
67. Guangdong Yonglijian Aluminum Co., Ltd.
68. Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.
69. Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.
70. Hangzhou Xingyi Metal Products Co., Ltd.
71. Hanwood Enterprises Limited
72. Hanyung Alcoba Co., Ltd.
73. Hanyung Alcobis Co., Ltd.
74. Hanyung Metal (Suzhou) Co., Ltd.
75. Hao Mei Aluminum Co., Ltd.
76. Hao Mei Aluminum International Co., Ltd.
77. Hebei Xusen Wire Mesh Products Co., Ltd.
78. Hong Kong Gree Electric Appliances Sales Limited
79. Hong Kong Modern Non-Ferrous Metal
80. Honsense Development Company
81. Hui Mei Gao Aluminum Foshan Co., Ltd.
82. Huixin Aluminum
83. IDEX Dinglee Technology (Tianjin) Co., Ltd.
84. IDEX Technology Suzhou Co., Ltd.
85. IDEX Health
86. Innovative Aluminium (Hong Kong)

Limited
87. iSource Asia
88. Jackson Travel Products Co., Ltd.
89. Jangho Curtain Wall Hong Kong Ltd.
90. Jiangmen Jianghai District Foreign Economic Enterprise Corp. Ltd.
91. Jiangmen Jianghai Foreign Ent. Gen.
92. Jiangmen Qunxing Hardware Diecasting Co., Ltd.
93. Jiangsu Changfa Refrigeration Co., Ltd.
94. Jiangyin Suncitygaylin
95. Jiangyin Trust International Inc.
96. Jiangyin Xinhong Doors and Windows Co., Ltd.
97. Jiaxing Jackson Travel Products Co., Ltd.
98. Jiaxing Taixin Metal Products Co., Ltd.
99. Jiuyan Co., Ltd.
100. JMA (HK) Company Limited
101. Johnson Precision Engineering (Suzhou) Co., Ltd.
102. Justhere Co., Ltd.
103. Kam Kiu Aluminium Products Sdn. Bhd.
104. Kanal Precision Aluminum Product Co., Ltd
105. Karlton Aluminum Company Ltd.
106. Kong Ah International Company Limited
107. Kromet International
108. Kromet International, Inc.
109. Kromet Intl Inc
110. Kunshan Giant Light Metal Technology Co., Ltd.
111. Longkou Donghai Trade Co., Ltd.
112. Metaltek Group Co., Ltd.
113. Metaltek Metal Industry Co., Ltd.
114. Midea Air Conditioning Equipment Co., Ltd.
115. Miland Luck Limited
116. Nanhai Textiles Import & Export Co., Ltd.
117. New Asia Aluminum & Stainless Steel Product Co., Ltd.
118. New Zhongya Aluminum Factory
119. Nidec Sankyo (Zhejang) Corporation
120. Nidec Sankyo Zhejiang Corporation
121. Nidec Sankyo Singapore Pte. Ltd.
122. Ningbo Coaster International Co., Ltd.
123. Ningbo Hi Tech Reliable Manufacturing Company
124. Ningbo Innopower Tengda Machinery
125. Ningbo Ivy Daily Commodity Co., Ltd.
126. Ningbo Yili Import and Export Co., Ltd.
127. North China Aluminum Co., Ltd.
128. North Fenghua Aluminum Ltd.
129. Northern States Metals
130. PanAsia Aluminium (China) Limited
131. Pengcheng Aluminum Enterprise Inc.
132. Permasteelisa Hong Kong Limited
133. Permasteelisa South China Factory
134. Pingguo Aluminum Company Limited
135. Pingguo Asia Aluminum Co., Ltd.
136. Popular Plastics Co., Ltd.
137. Precision Metal Works Limited
138. Press Metal International Ltd.
139. Samuel, Son & Co., Ltd.
140. Sanchuan Aluminum Co., Ltd.
141. Sanhua (Hangzhou) Micro Channel Heat Exchanger Co., Ltd
142. Shangdong Huasheng Pesticide Machinery Co.
143. Shangdong Nanshan Aluminum Co., Ltd.
144. Shanghai Automobile Air-Conditioner Accessories Co Ltd
145. Shanghai Automobile Air Conditioner Accessories Ltd.
146. Shanghai Canghai Aluminum Tube Packaging Co., Ltd
147. Shanghai Dongsheng Metal
148. Shanghai Shen Hang Imp & Exp Co., Ltd.
149. Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.
150. Shenzhen Hudson Technology Development Co.
151. Shenzhen Jiuyuan Co., Ltd.
152. Sihui Shi Guo Yao Aluminum Co., Ltd.
153. Skyline Exhibit Systems (Shanghai) Co., Ltd.
154. Southwest Aluminum (Group) Co., Ltd.
155. Suzhou JRP Import & Export Co., Ltd.
156. Suzhou New Hongji Precision Part Co.
157. Tai-Ao Aluminium (Taishan) Co., Ltd.
158. Taishan City Kam Kiu Aluminium Extrusion Co., Ltd.
159. Taizhou Lifeng Manufacturing Co., Ltd.
160. Taizhou Lifeng Manufacturing Corporation, Ltd.
161. Taizhou United Imp. & Exp. Co., Ltd.
162. tenKsolar (Shanghai) Co., Ltd.
163. Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.
164. Tianjin Jinmao Import & Export Corp., Ltd.
165. Tianjin Ruixin Electric Heat Transmission Technology, Ltd.
166. Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.
167. Tiazhou Lifeng Manufacturing Corporation
168. Top-Wok Metal Co., Ltd.
169. Traffic Brick Network, LLC
170. Union Aluminum (SIP) Co.
171. Union Industry (Asia) Co., Ltd.
172. Wenzhou Shengbo Decoration & Hardware
173. Whirlpool (Guangdong)
174. WTI Building Products, Ltd.
175. Xin Wei Aluminum Co.
176. Xinya Aluminum & Stainless Steel Product Co., Ltd.
177. Yuyao Fanshun Import & Export Co., Ltd.
178. Yuyao Haoshen Import & Export
179. Zahoqing China Square Industry Limited
180. Zhaoqing Asia Aluminum Factory Company Ltd.
181. Zhaoqing China Square Industrial Ltd.
182. Zhaoqing China Square Industry Limited
183. Zhaoqing New Zhongya Aluminum Co., Ltd.
184. Zhejiang Anji Xinxiang Aluminum Co., Ltd.
185. Zhejiang Yongkang Listar Aluminium Industry Co., Ltd.
186. Zhejiang Zhengte Group Co., Ltd.
187. Zhenjiang Xinlong Group Co., Ltd.
188. Zhongshan Daya Hardware Co., Ltd.
189. Zhongshan Gold Mountain Aluminum Factory Ltd.
190. Zhongya Shaped Aluminium (HK) Holding Limited
191. Zhuhai Runxingtai Electrical Equipment Co., Ltd.

[FR Doc. 2018–02521 Filed 2–7–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 8, 2018.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (Commerce) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish quarterly updates to the type and amount of those subsidies. We hereby provide Commerce's quarterly update of subsidies on articles of cheese that were imported during the period July 1, 2017, through September 30, 2017.

Commerce has developed, in consultation with the Secretary of Agriculture, information on subsidies, as defined in section 702(h) of the Act, being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. Commerce will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

Commerce encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of

Commerce, 1401 Constitution Ave. NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: February 2, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
28 European Union Member States [3]	European Union Restitution Payments	$ 0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.45	0.45
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
Total		0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 28 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2018–02519 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of NAFTA Request for Panel Review in the matter of 100- to 150-Seat Large Civil Aircraft from Canada: Final Affirmative Determination of Sales at Less Than Fair Value (Secretariat File Number: USA–CDA–2018–1904–02).

SUMMARY: Requests for Panel Review were filed on behalf of Bombardier Inc. and C Series Aircraft Limited Partnership and the Government of Canada with the United States Section of the NAFTA Secretariat on January 19, 2018, pursuant to NAFTA Article 1904. Panel Review was requested of the Department of Commerce's Final Affirmative Determination of Sales at Less Than Fair Value regarding 100- to 150-Seat Large Civil Aircraft from Canada. The final determination was published in the **Federal Register** on December 27, 2017 (82 FR 61,255). The NAFTA Secretariat has assigned case number USA–CDA–2018–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, which were adopted by the three governments for panels requested pursuant to Article 1904(2) of NAFTA which requires Requests for Panel Review to be published in accordance with Rule 35. For the complete Rules, please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904.*

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 20, 2018);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 5, 2018); and

(c) The panel review shall be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: February 2, 2018.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2018–02475 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–864, A–823–805]

Silicomanganese From the People's Republic of China and Ukraine: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these sunset reviews, the Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on

silicomanganese from the People's Republic of China (China) and Ukraine would be likely to lead to continuation or recurrence of dumping at the dumping margins identified in the ''Final Results of Review'' section of this notice.

DATES: Applicable February 8, 2018.

FOR FURTHER INFORMATION CONTACT: Joseph Degreenia, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6430.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 2017, Commerce published the notice of initiation of the fourth sunset reviews of the antidumping duty orders [1] on silicomanganese from China and Ukraine, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On October 19, 2017, Commerce received a notice of intent to participate from Eramet Marietta, Inc. (Eramet), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] On October 9, 2017, Commerce received a letter from the Trade Defense Department of the Ministry of Economic Development and Trade (TDDMEDT) of Ukraine in which TDDMEDT stated its intent to participate as an interested party in this proceeding.[4] Eramet claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of silicomanganese.[5] On November 3, 2017, Commerce received complete substantive responses from Eramet within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[6] We received no substantive response from any other domestic or respondent interested parties in this proceeding, nor was a hearing requested. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), Commerce conducted expedited (120-day) sunset reviews of the *AD Orders.* Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of these sunset reviews is now February 5, 2018.[7]

Scope of the AD Orders

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. All compositions, forms and sizes of silicomanganese are included within the scope of these orders, including silicomanganese slag, fines and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040.[8] The *AD Orders* cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the *AD Orders* remains dispositive.[9]

Analysis of Comments Received

All issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the *AD Orders* were revoked, are addressed in the Issues and Decision Memorandum,[10] dated concurrently with, and hereby adopted by this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, we determine that revocation of the *AD Orders* on silicomanganese from China and Ukraine would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 150 percent for China and 163 percent for Ukraine.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply

[1] *See Notice of Antidumping Duty Order: Silicomanganese from the People's Republic of China (PRC),* 59 FR 66003 (December 22, 1994) and *Suspension Agreement on Silicomanganese from Ukraine; Termination of Suspension Agreement and Notice of Antidumping Duty Order,* 66 FR 43838, August 21, 2001 (*AD Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 82 FR 46221 (October 4, 2017).

[3] *See* letters from Eramet, ''Five-Year (''Sunset'') Review of Antidumping Duty Order on Silicomanganese from the People's Republic of China: Notice of Intent to Participate,'' dated October 19, 2017 (Eramet China NOITP) and ''Five-Year (''Sunset'') Review of Antidumping Duty Order on Silicomanganese from Ukraine: Notice of Intent to Participate,'' dated October 19, 2017 (Eramet Ukraine NOITP).

[4] *See* letter from Government of Ukraine, ''Entry of Appearance: Five-Year ''Sunset'' Review of the Antidumping Duty Order on Silicomanganese from China, and Ukraine (4th Review), DOC Case No. A–823–805,'' dated October 9, 2017.

[5] *See* Eramet China NOITP, at 1; and Eramet Ukraine NOITP, at 1.

[6] *See* letters from Eramet, ''Five-Year (''Sunset'') Review of Antidumping Duty Order on Silicomanganese from the People's Republic of China: Eramet's Substantive Response to Notice of Initiation,'' dated November 3, 2017 (Eramet China Substantive Response) and ''Five-Year (''Sunset'') Review of Antidumping Duty Order on Silicomanganese from Ukraine: Eramet's Substantive Response to Notice of Initiation,'' dated November 3, 2017 (Eramet Ukraine Substantive Response).

[7] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[8] 7202.99.5040 is the applicable HTSUS statistical reporting prior to July 2, 2003. Effective July 2, 2003, the subject merchandise that would originally have entered under 7202.99.5040 now enters under 7202.99.8040.

[9] *See Continuation of Antidumping Duty Orders: Silicomanganese from the People's Republic of China and Ukraine,* 77 FR 66956 (November 8, 2012).

[10] *See* Commerce's memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order on Silicomanganese from the People's Republic of China and Ukraine,'' dated concurrently with this notice (Issues and Decision Memorandum).

with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CR 351.218.

Dated: February 2, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–02523 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Final Results of the Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines, in the context of the changed circumstance review (CCR) of the antidumping duty order on glycine from the People's Republic of China (China), that Salvi Chemical Industries Ltd. (Salvi) and its importers, are ineligible to participate in a certification process because, after further review of the record evidence and comments submitted, we find Salvi has not demonstrated that the sales of glycine examined are of non-Chinese origin. As a result, glycine produced by Salvi continues to be subject to the *Order* on glycine.

DATES: Applicable February 8, 2018.

FOR FURTHER INFORMATION CONTACT: Madeline Heeren, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9179.

SUPPLEMENTARY INFORMATION:

Background

Commerce initiated this CCR on November 16, 2016, and published the *Preliminary Results* on August 11, 2017.[1] Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now February 5, 2018.[2] For a description of events that have occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3] The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The product covered by this antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This proceeding includes glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).[4] Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.[5]

Analysis of Comments Received

All issues raised by GEO, the domestic interested party, in its case brief are addressed in the Issues and Decision Memorandum. No other party filed a case or rebuttal brief. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice.

Final Results of the Changed Circumstances Review

Commerce finds that, based upon the record of the CCR, Salvi has not demonstrated that its sales of glycine are of non-Chinese origin, and therefore, Salvi, along with its importers, are not permitted to participate in the certification process. Thus, glycine produced by Salvi continues to be subject to the *Order.*[6]

Notification to Parties

This notice is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Commerce is issuing and publishing these results in accordance with sections 751(b)(1) and (4) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 19 CFR 351.221(c)(3)(i).

Dated: February 2, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of Issues
Comment 1: Whether Salvi is Producing Glycine from Non-Chinese Origin Raw

[1] *See Glycine from the People's Republic of China: Initiation of Antidumping Duty Changed Circumstances Review,* 81 FR 81064 (November 17, 2016); *see also Glycine from the People's Republic of China: Preliminary Results of Changed Circumstances Review,* 82 FR 37564 (August 11, 2017) (*Preliminary Results*).

[2] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. The new deadline falls on Sunday, February 4, 2018. The next business day is Monday, February 5, 2018.

[3] *See* ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Changed Circumstances Review of Glycine from the People's Republic of China,'' dated concurrently with and hereby adopted in this notice (Issues and Decision Memorandum).

[4] In separate scope rulings, Commerce determined that: (a) D(-) Phenylglycine Ethyl Dane Salt is outside the scope of the order and (b) Chinese-origin glycine exported from India remains the same class or kind of merchandise as the Chinese-origin glycine imported into India. *See Notice of Scope Rulings and Anticircumvention Inquiries,* 62 FR 62288 (November 21, 1997) and *Circumvention Notice,* respectively.

[5] *See Antidumping Duty Order: Glycine from the People's Republic of China,* 60 FR 16116 (March 29, 1995) (*Order*).

[6] This determination applies to all importers of glycine produced by Salvi, including Nutracare International (Nutracare).

Materials and May Participate in the Certification Process
V. Recommendation

[FR Doc. 2018–02515 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of NAFTA Request for Panel Review in the matter of 100- to 150-Seat Large Civil Aircraft from Canada: Final Affirmative Countervailing Duty Determination (Secretariat File Number: USA–CDA–2018–1904–01).

SUMMARY: Requests for Panel Review were filed with the United States Section of the NAFTA Secretariat on behalf of Bombardier Inc. and C Series Aircraft Limited Partnership, the Government of Canada, and the Government of Québec on January 19, 2018, as well as on behalf of the Government of the United Kingdom and the European Commission on January 24, 2018, pursuant to NAFTA Article 1904. Panel Review was requested of the Department of Commerce's final countervailing duty determination regarding 100- to 150-Seat Large Civil Aircraft from Canada. The final determination was published in the **Federal Register** on December 27, 2017 (82 FR 61,252). The NAFTA Secretariat has assigned case number USA–CDA–2018–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, which were adopted by the three governments for panels requested pursuant to Article 1904(2) of NAFTA which requires Requests for Panel Review to be published in accordance with Rule 35. For the complete Rules, please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904.*

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 20, 2018);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 5, 2018); and

(c) The panel review shall be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: February 2, 2018.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2018–02474 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty Administrative Review; 2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Jindal Poly Films Limited of India (Jindal) and SRF Limited (SRF), exporters of polyethylene terephthalate film, sheet, and strip (PET film) from India, received countervailable subsidies during the period of review (POR) January 1, 2015, through December 31, 2015.

DATES: Effective February 8, 2018.

FOR FURTHER INFORMATION CONTACT: Elfi Blum, AD/CVD Operations, Office VII, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0197.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the preliminary results of this administrative review of PET film from India on August 3, 2016.[1] We invited interested parties to comment on the *Preliminary Results 2015.* On November 27, 2017, Commerce postponed the final results of review until January 30, 2018. On September 5, 2017, Commerce received a timely filed case brief from Jindal, and on September 18, 2017, Commerce received timely filed case briefs from the Government of India (GOI) and from SRF. On September 25, 2017, Commerce received timely rebuttal comments from the petitioners, DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, the petitioners). Based on an analysis of the comments received, Commerce has made no changes to the subsidy rate determined for respondents. The final subsidy rates are listed in the ''Final Results of Administrative Review'' section below.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now February 2, 2018.[2]

Scope of the Order

For the purposes of the order, the products covered are all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet and strip, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States

[1] *See Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2015,* 82 FR 36124 (August 3, 2016) (*Preliminary Results 2015*).

[2] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

(HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

Analysis of Comments Received

The issues raised by the GOI, SRF, and Jindal in their case briefs and the petitioners' issues raised in their rebuttal brief are addressed in the Issues and Decision Memorandum.[3] The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on the comments received from the GOI, Jindal, and SRF, and the rebuttal comments received from the petitioners, we made no changes to our rate calculations. For a discussion of these issues, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a description of the methodology underlying all of Commerce's conclusions, *see* the Issues and Decision Memorandum.

Final Results of Administrative Review

In accordance with section 777A(e)(1) of the Act and 19 CFR 351.221(b)(5), we determine the total estimated net countervailable subsidy rates for the period January 1, 2015, through December 31, 2015 to be:

Manufacturer/exporter	Subsidy rate (percent *ad valorem*)
Jindal Poly Films of India Limited	5.26
SRF Limited	5.79

Assessment and Cash Deposit Requirements

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue appropriate instructions to U.S. Customs and Border Protection (CBP) 15 days after publication of the final results of this review. Commerce will instruct CBP to liquidate shipments of subject merchandise produced and/or exported by the companies listed above, entered or withdrawn from warehouse, for consumption from January 1, 2015, through December 31, 2015, at the percent rates, as listed above for each of the respective companies, of the entered value.

Commerce intends also to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 2, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Issues and Decision Memorandum

I. Summary
II. Scope of the Order
III. Period of Review
IV. Subsidies Valuation Information
  A. Allocation Period
  B. Attribution of Subsidies
  C. Benchmarks Interest Rates
  D. Denominator
V. Analysis of Programs
  A. Programs Determined To Be Countervailable
  B. Programs Determined To Be Not Used
  C. Programs Determined To Be Terminated
VI. Final Results of Review
VII. Analysis of Comments

Comment 1: Whether Commerce may disregard loans from certain banks with government ownership in its benchmark calculations.

Comment 2: Whether the Export Promotion Capital Goods Scheme (EPCGS) is a countervailable export subsidy, pursuant to the SCM Agreement.

Comment 3: Whether the exemption from duties and taxes in a Special Economic Zone (SEZ) constitutes a financial contribution.

Comment 4: Whether the benefits SRF received under the SEZ program are tied to the export sales of polyester film from the Packaging Film Business (PFB) located in the SEZ.

Comment 5: Whether the GOI has a verification system in place for the Advance Authorization Scheme (AAS) that is effective and reasonable.

Comment 6: Whether Commerce needs to adjust the dates in the preliminary draft cash deposit instructions for the final results.

[FR Doc. 2018–02517 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* Memorandum from James Maeder, Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance: ''Issues and Decision Memorandum for the Final Results in the Countervailing Duty Administrative Review of Polyethylene Terephthalate Film, Sheet and Strip from India,'' dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF997

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Mariana Archipelago Ecosystem Plan (FEP) Advisory Panels (AP) to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The CNMI Mariana Archipelago FEP AP will meet on Thursday, February 22, 2018, between 6 p.m. and 8 p.m. The Guam Mariana Archipelago FEP AP will meet on Friday, February 23, 2018, between 6 p.m. and 7:30 p.m. All times listed are local island times. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: The CNMI Mariana Archipelago FEP AP will meet at the Micronesian Environmental Services Conference Room, Garapan, Saipan, CNMI 96950. The Guam Mariana Archipelago FEP AP will meet at the Guam Fishermen's Cooperative Association Lanai, Hagatna, Guam 96913.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided in the agenda. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the CNMI Mariana Archipelago FEP AP Meeting

Thursday, February 22, 2018, 6 p.m.–8 p.m.

1. Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
   A. Action Items
   i. Precious Corals Essential Fish Habitat Refinement Options
   ii. Options for an Aquaculture Management Program
   iii. U.S. Territory Longline Bigeye Specification
   B. Other Council Issues
4. CNMI Mariana Archipelago FEP Community Activities
5. CNMI Mariana Archipelago FEP AP Issues
   A. Report of the Subpanels
   i. Island Fisheries Subpanel
   ii. Pelagic Fisheries Subpanel
   iii. Ecosystems and Habitat Subpanel
   iv. Indigenous Fishing Rights Subpanel
   B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Schedule and Agenda for the Guam Mariana Archipelago FEP AP Meeting

Friday, February 23, 2018, 6 p.m.–7:30 p.m.

1. Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
   A. Action Items
   i. Precious Corals Essential Fish Habitat Refinement Options
   ii. Options for an Aquaculture Management Program
   iii. U.S. Territory Longline Bigeye Specification
   B. Other Council Issues
4. Guam Mariana Archipelago FEP Community Activities
5. Guam Mariana Archipelago FEP AP Issues
   A. Report of the Subpanels
   i. Island Fisheries Subpanel
   ii. Pelagic Fisheries Subpanel
   iii. Ecosystems and Habitat Subpanel
   iv. Indigenous Fishing Rights Subpanel
   B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. ''At the End of the Day''—Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: February 5, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–02509 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF968

Marine Mammals; File No. 21371

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the National Marine Fisheries Service's Northeast Fisheries Science Center (NEFSC), 166 Water Street, Woods Hole, Massachusetts 02543 (Responsible Party: Jon Hare) has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before March 12, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21371 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of

1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant is requesting a research permit for 38 species of cetaceans including the following endangered species: Blue (*Balaenoptera musculus*), bowhead (*Balaena mysticetus*), fin (*B. physalus*), North Atlantic right (*Eubalaena glacialis*), sei (*B. borealis*), sperm (*Physeter macrocephalus*), and Western North Pacific gray (*Eschrichtius robustus*) whales. The research area will include U.S. waters in the Northwest Atlantic Ocean from Florida to Maine, and Canadian waters in the Bay of Fundy and Scotian Shelf. The objective of the research is to determine the abundance, distribution, movement patterns, dive behavior, demographic parameters, trends in recruitment, and stock structure of cetaceans in these waters. Research methods during vessel and aerial (manned and unmanned) surveys will include counts, surveys, behavioral observations, photo-identification, video recording, photogrammetry, passive acoustic recording, biological sampling (skin and blubber biopsy, feces, and exhaled air) and tagging (suction-cup and dart/barb tags). Receipt, import, and export of marine mammal parts would also be authorized for research purposes. Four species of non-ESA listed pinnipeds and four species of sea turtles may be harassed incidental to cetacean research. The permit would be valid for a period of five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 5, 2018.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–02508 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF998

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, February 21, 2018 at 10 a.m.

ADDRESSES: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740; telephone: (774) 634–2000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will discuss the scope of alternatives to be considered in Framework 6—this could include adjustments to the wing possession limits; provide guidance to the Skate Plan Development Team for appropriate range of alternatives to be analyzed. They will receive an overview of the Council's skate priorities for 2018, and discuss other business, as necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: February 2, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–02497 Filed 2–7–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–775–000]

All American Power and Gas, 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 All American Power and Gas, 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 22, 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: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02528 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD18–8–000; Docket No. EL18–26–000]

Reform of Affected System Coordination in the Generator Interconnection Process; EDF Renewable Energy, Inc. v. Midcontinent Independent System Operator, Inc., Southwest Power Pool, Inc., and PJM Interconnection, L.L.C.; Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) will convene a staff-led technical conference in the above-referenced proceeding on Tuesday and Wednesday, April 3–4, 2018 from 9:30 a.m. to 4:30 p.m. (EDT). The conference will be held in the Commission Meeting Room at Commission headquarters, 888 First Street NE, Washington, DC 20426. Commissioners may attend and participate.

The purpose of this conference is to discuss issues related to the coordination of Affected Systems raised in (1) the complaint filed by EDF Renewable Energy, Inc. against Midcontinent Independent System Operator, Inc., Southwest Power Pool, Inc., and PJM Interconnection, L.L.C. in Docket No. EL18–26–000 and (2) the Commission's Notice of Proposed Rulemaking on the generator interconnection process in Docket No. RM17–8–000.

Discussions at the conference may involve issues raised in proceedings that are currently pending before the Commission. These proceedings include, but are not limited to:

Internal MISO Generators v. Midcontinent Independent System Operator, Inc., Docket No. EL15–99–000;

EDF Renewable Energy, Inc. v. Midcontinent Independent System Operator, Inc., Docket No. EL18–55–000; Southwest Power Pool, Inc., Docket No. ER18–421–000;

Midcontinent Independent System Operator, Inc., Docket No. ER18–636–000;

Midcontinent Independent System Operator, Inc., Docket No. ER16–1346–003;

Midcontinent Independent System Operator, Inc., Docket No. ER16–1817–004;

Midcontinent Independent System Operator, Inc., Docket No. EL18–17–000;

Midcontinent Independent System Operator, Inc., Docket No. ER17–156–002; and

TranSource, LLC v. PJM Interconnection, L.L.C., Docket No. EL15–79–001.

Additional information regarding the conference program and speakers will be provided in subsequent supplemental notices of technical conference.

Those wishing to participate in this conference should submit a nomination form online by 5:00 p.m. on March 2, 2018 at: *http://www.ferc.gov/whats-new/registration/04-03-18-speaker-form.asp.* There is no fee for attendance. In-person attendees should allow time to pass through building security procedures before the 9:30 a.m. start time of the technical conference. Pre-registration is encouraged, though not required. Attendees may register in advance at the following web page: *http://www.ferc.gov/whats-new/registration/04-03-18-form.asp*

The conference will be transcribed and webcast. Transcripts will be available immediately for a fee from Ace Reporting (202–347–3700). A link to the webcast of this event will be available in the Commission Calendar of Events at *www.ferc.gov.* The Capitol Connection provides technical support for the webcasts and offers the option of listening to the conferences via phone-bridge for a fee. For additional information, visit *www.CapitolConnection.org* or call (703) 993–3100.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact Lina Naik at *Lina.Naik@ferc.gov* or (202) 502–8882, Myra Sinnott at *Myra.Sinnott@ferc.gov* or (202) 502–6033, or Kathleen Ratcliff at *Kathleen.Ratcliff@ferc.gov* or (202) 502–8018. For information related to logistics, please contact Sarah McKinley at *Sarah.Mckinley@ferc.gov* or (202) 502–8368.

Dated: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02530 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–4–000]

Commission Information Collection Activities; (FERC–582); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–582 (Electric Fees, Annual Charges, Waivers, and Exemptions) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

DATES: Comments on the collection of information are due April 9, 2018.

ADDRESSES: You may submit comments (identified by Docket No. 18–4–000) by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Electric Fees, Annual Charges, Waivers, and Exemptions.

OMB Control No.: 1902–0132

Type of Request: Three-year extension of the FERC–582 information collection requirements with no changes to the current reporting requirements.

Abstract: The information required by FERC–582 is contained within 18 Code of Federal Regulations (CFR) Part 381 [1] and Part 382.[2]

The Commission uses the FERC–582 to implement the statutory provisions of the Independent Offices Appropriation Act of 1952 (IOAA) [3] which authorizes the Commission to establish fees for its services. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA) [4] authorizes the Commission to assess and collect fees and annual charges in any fiscal year in amounts equal to all the costs incurred by the Commission in that fiscal year.

To comply with the FERC–582 respondents submit to the Commission the sum of the megawatt-hours (MWh) of all unbundled transmission (including MWh delivered in wheeling transactions and MWh delivered in exchange transactions) and the megawatt-hours of all bundled wholesale power sales (to the extent the bundled wholesale power sales were not separately reported as unbundled transmission). The data collected within the FERC–582 is drawn directly from the FERC Form 1 [5] transmission data. The Commission sums the costs of its electric regulatory program and subtracts all electric regulatory program filing fee collections to determine the total collectible electric regulatory program costs. Then, the Commission uses the data submitted under FERC–582 to determine the total megawatt-hours of transmission of electric energy in interstate commerce.

Respondents (*e.g.* public utilities, power marketers) subject to these annual charges must submit FERC–582 data to the Commission by April 30 of each year.[6] The Commission issues bills for annual charges to respondents. Then, respondents must pay the charges within 45 days of the Commission's issuance of the bill.

Respondents file requests for waivers and exemptions of fees and charges [7] based on need. The Commission's staff uses the filer's financial information to evaluate the request for a waiver or exemption of the obligation to pay a fee or an annual charge.

Estimate of Annual Burden: [8] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–82—ELECTRIC FEES; ANNUAL CHARGES; WAIVERS; AND EXEMPTIONS

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden cost per response	Total annual burden hours & total annual	Cost per respondent
	(1)	(2)	(1) × (2) = (3)	(4)	(3) * (4) = (5)	(5) / (1) = (5)
FERC–582 [9]	67	1	67	1 hour; $76.50	67 hours; $5,125.50 ..	$76.50

The total estimated annual cost burden to respondents is $5,125.50 [67 hours * $76.50/hour [10] = $5,125.50]

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02533 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

[1] Title 18 CFR, Sections 381.105, 381.106, 381.108, 381.302, and 381.305.

[2] Title 18 CFR, Sections 382.102, 382.103, 382.105, 382.106, and 382.201.

[3] 31 U.S.C. 9701.

[4] 42 U.S.C. 7178.

[5] Annual Report of Major Electric Utility (OMB Control No. 1902–0021).

[6] 18 CFR 382.201.

[7] 18 CFR 381 and 382.

[8] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[9] Includes requirements of 18 CFR Part 381.105 (methods of payment), Part 381.106 (waiver), Part 381.108 (exemption), Part 381.302 (declaratory order), Part 381.303 (review of DOE remedial order), Part 381.304 (DOE denial of adjustment, and Part 381.305 (OGC interpretation).

[10] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2017 annual average of $158,754 (for salary plus benefits), the average hourly cost is $76.50/hour.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–51–000.

Applicants: MDU Resources Group, Inc.

Description: Application for Authorization Under Section 203 of the Federal Power Act of MDU Resources Group, Inc.

Filed Date: 1/31/18.

Accession Number: 20180131–5295.
Comments Due: 5 p.m. ET 2/21/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–40–000.
Applicants: Upstream Wind Energy LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Upstream Wind Energy LLC.
Filed Date: 2/2/18.
Accession Number: 20180202–5044.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: EG18–41–000.
Applicants: New Mexico Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of New Mexico Wind, LLC.
Filed Date: 2/2/18.
Accession Number: 20180202–5054.
Comments Due: 5 p.m. ET 2/23/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–752–001.
Applicants: Duke Energy Carolinas, LLC.
Description: Tariff Amendment: Amendments to CEPCI NITSA (SA No. 447) and Meter Agreement (SA No. 448) to be effective 1/1/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5021.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–780–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Notices of Cancellation of GIAs & Service Agreements SunEdison LLC to be effective 4/4/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5001.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–781–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended LGIA RE Gaskell West, RE Gaskell West 1, RE Gaskell West 2, SA No. 184 to be effective 2/3/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5002.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–782–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits Revised Interconnection Agreement No. 3994 to be effective 4/4/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5020.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–783–000.
Applicants: MISO Transmission Owners.
Description: Expedited Petition of the certain MISO Transmission Owners for Waiver of Tariff Provisions and Shortened Answer Date.
Filed Date: 2/1/18.
Accession Number: 20180201–5136.
Comments Due: 5 p.m. ET 2/22/18.

Docket Numbers: ER18–784–000.
Applicants: Upstream Wind Energy LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 4/4/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5022.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–784–001.
Applicants: Upstream Wind Energy LLC.
Description: Tariff Amendment: Supplement to Application for Market-Based Rate Authorization to be effective 4/4/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5060.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–785–000.
Applicants: Public Service Company of New Hampshire.
Description: § 205(d) Rate Filing: Large Interconnection Agreement with GSP Newington Station to be effective 1/10/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5070.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–786–000.
Applicants: Public Service Company of New Hampshire.
Description: § 205(d) Rate Filing: Large Interconnection Agreement with GSP White Lake to be effective 1/10/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5072.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–787–000.
Applicants: Public Service Company of New Hampshire.
Description: § 205(d) Rate Filing: Small Interconnection Agreement with GSP Lost Nation to be effective 1/10/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5074.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–788–000.
Applicants: Midcontinent Independent System Operator, Inc., Consumers Energy Company.
Description: § 205(d) Rate Filing: 2018–02–02 Consumers Attachment O Filing re Settlement in ER16–1188; ER17–1655 to be effective 3/31/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5085.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–789–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA No. 4822; Queue AC1–019 to be effective 3/23/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5086.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–790–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: 2–2–18 Unexecuted Agreement, City and County of San Francisco WDT (SA 27 to be effective 2/3/2018.
Filed Date: 2/2/18.
Accession Number: 20180202–5120.
Comments Due: 5 p.m. ET 2/23/18.

Docket Numbers: ER18–791–000.
Applicants: Massachusetts Electric Company.
Description: Tariff Cancellation: Notice of Cancellation of Service Agmt IA–MECO–31–01 & Notice Waiver Request to be effective 12/21/2016.
Filed Date: 2/2/18.
Accession Number: 20180202–5123.
Comments Due: 5 p.m. ET 2/23/18.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH18–5–000.
Applicants: Cross & Company, PLLC.
Description: GEP Bison Holdings, Inc. submits FERC 65–A Exemption Notification.
Filed Date: 2/1/18.
Accession Number: 20180201–5154.
Comments Due: 5 p.m. ET 2/22/18.

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: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02531 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP18–37–000; CP18–38–000]

Notice of Intent To Prepare an Environmental Assessment for the Proposed Sierrita Gas Pipeline LLC Sierrita Compressor Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Sierrita Compressor Expansion Project involving construction and operation of facilities by Sierrita Gas Pipeline LLC (Sierrita) in Pima County, Arizona. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before March 5, 2018.

If you sent comments on this project to the Commission before the opening of this docket on December 21, 2017, you will need to file those comments in Docket No. CP18–37–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Sierrita provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP18–37–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Sierrita proposes to construct and operate new natural gas compression, metering, and pipeline facilities on its existing Line No. 2177 in Pima County, Arizona. Sierrita is also requesting approval to amend its existing Natural Gas Act Section 3 authorization and Presidential Permit for the project's increased capacity. Specifically, the project would increase Sierrita's authorized capacity of its existing international border crossing near Sasabe, Arizona from approximately 200,846 Dekatherms per day to 631,389 Dekatherms per day (627,000,000 cubic feet per day).

The Sierrita Compressor Expansion Project would consist of the following facilities, all in Pima County:

- One new 15,900 horsepower compressor station (Sierrita Compressor Station);
- suction and discharge piping and various station yard auxiliary facilities to connect the Sierrita Compressor Station with Line No. 2177;
- one new 10-inch Ultrasonic meter at the existing San Joaquin Meter Station on Line No. 2177; and
- the relocation of the existing ''Mainline Valve 2'' and an associated inspection tool launcher and receiver from milepost 1.2 to milepost 6.5 on Line No. 2177.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 18.7 acres of land for the aboveground and auxiliary facilities. Following construction, Sierrita would maintain about 15.7 acres for permanent operation of the compressor station including station piping and auxiliary facilities, and about 1.1 acres for operation of the mainline valve. The remaining acreage would be restored and revert to former uses.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources (including floodplains), fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- socioeconomics;
- public safety; and
- cumulative impacts

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies of the EA will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an intervenor which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the Document-less Intervention Guide under the e-filing link on the Commission's website. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP18–37). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02527 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR18–12–000]

BP Products North America, Inc., Trafigura Trading LLC, TCPU Inc. v. Colonial Pipeline Company; Notice of Complaint

Take notice that on February 2, 2018, pursuant to sections 1(5), 6, 8, 9, 13, 15 and 16 of the Interstate Commerce Act,[1] section 1803 of the Energy Policy Act of 1992,[2] Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[3] and Rules 343.1(a) and 343.2(c) of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings,[4] BP Products North America, Inc., Trafigura Trading LLC, and TCPU Inc. (collectively, Joint Complainants) filed a formal complaint against Colonial Pipeline Company (Respondent) seeking to challenge the justness and reasonableness of (1) Respondent's cost-based transportation rates in Tariff F.E.R.C. No. 99.36.0 and predecessor tariffs; (2) Respondent's market-based rate authority and rates charged pursuant to that authority; and (3) Respondent's charges relating to product loss allocation and transmix, all as more fully explained in the complaint.

Joint Complainants certify that copies of the complaint were served on the contacts for Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for 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.

Comment Date: 5:00 p.m. Eastern Time on March 5, 2018.

Dated: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02535 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

[1] 49 U.S.C. App. 1(5), 6, 8, 9, 13, 15 and 16.

[2] Public Law 102–486, 106 Stat. 2772 (1992).

[3] 18 CFR 385.206 (2012).

[4] 18 CFR 343.1(a) and 343.2(c).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9100–040]

James M. Knott; Notice Soliciting Scoping Comments

February 2, 2018.

Take notice that the following hydroelectric license application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* P–9100–040.

c. *Date filed:* April 27, 2017.

d. *Applicant:* James M. Knott.

e. *Name of Project:* Riverdale Mills Project.

f. *Location:* On the Blackstone River in Worcester County, Massachusetts. There are no federal or tribal lands within the project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kevin Young, Young Energy Services, LLC, 2112 Talmage Drive, Leland, NC 28451; (617) 645–3658.

i. *FERC Contact:* Dr. Nicholas Palso, (202) 502–8854 or *nicholas.palso@ferc.gov.*

j. *Deadline for filing scoping comments:* 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–9100–040.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The existing Riverdale Mills Project consists of: (1) A 142-foot-long, 14-foot-high concrete and steel dam that includes a spillway that contains five stanchion bays with stop-logs, and one hydraulically-operated spillway gate; (2) a 22-acre impoundment with a normal maximum elevation of 262.35 feet above mean sea level; (3) two unused, gated intake structures connected to two 10-foot-wide sluiceways; (4) a gated intake structure fitted with a trashrack with 1.75-inch bar spacing, and connected to a 14- to 18-foot-wide sluiceway; (5) a 200-foot-long, 75-foot-wide powerhouse room, located within the Riverdale Mills Corporation manufacturing facility, and containing a 150-kilowatt turbine-generator unit; (6) a tailrace that includes a 214-foot-long arched granite structure with a minimum width of 18 feet, and an 1,800-foot-long, 37.5- to 75-foot-wide excavated channel; (7) a 75-foot-long, 480-volt generator lead that connects the turbine-generator unit to the Riverdale Mills Corporation manufacturing facility; and (8) appurtenant facilities.

The project is manually operated as a run-of-river facility with an annual average energy production of approximately 162,000 kilowatt-hours. The project bypasses approximately 1,200 feet of the Blackstone River, and there is currently no required minimum instream flow for the bypassed reach.

Mr. Knott proposes to continue operating the project in a run-of-river

mode, and release a minimum flow of 10 cubic feet per second into the bypassed reach, including leakage from the stanchion stop-logs at the spillway.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is available for inspection and reproduction at Riverdale Power's office at 130 Riverdale Street, Northbridge, MA 01534.

n. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process.

Commission staff intends to prepare a single Environmental Assessment (EA) for the Riverdale Mills Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information on Scoping Document 1 (SD1), issued on February 2, 2018.

Copies of SD1 outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02532 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–777–000]

Iridium Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Iridium Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 22, 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: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02529 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the New York Independent System Operator, Inc. (NYISO):

NYISO Electric System Planning Working Group Meeting

February 7, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2018-02-07*

NYISO Business Issues Committee Meeting

February 14, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic&directory=2018-02-14*

NYISO Operating Committee Meeting

February 15, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=oc&directory=2018-02-15*

NYISO Electric System Planning Working Group Meeting

February 22, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2018-02-22*

NYISO Management Committee Meeting

February 28, 2018, 10:00 a.m.–2:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=mc&directory=2018-02-28*

The discussions at the meetings described above may address matters at issue in the following proceedings:

New York Independent System Operator, Inc., Docket No. ER13–102.

New York Independent System Operator, Inc., Docket No. ER15–2059.

New York Independent System Operator, Inc., Docket No. ER17–2327.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: February 2, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–02534 Filed 2–7–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0144; FRL–9972–94]

Assignment and Application of the "Unique Identifier" Under TSCA Section 14; Notice of Additional Information and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Recent amendments to the Toxic Substances Control Act (TSCA) require EPA to develop a system to assign a ''unique identifier'' whenever it approves a Confidential Business Information (CBI) claim for the specific chemical identity of a chemical substance, to apply this unique identifier to other information concerning the same substance, and to ensure that any nonconfidential information received by the Agency identifies the chemical substance using the unique identifier while the specific chemical identity of the chemical substance is protected from disclosure. EPA previously requested comment on approaches for assigning and applying unique identifiers, and has developed an additional approach on which it now requests comment.

DATES: EPA will accept written comments and materials submitted to the docket on or before March 12, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0144, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jessica Barkas, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 250–8880; email address: *barkas.jessica@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be affected by this action if you have submitted or expect to submit information to EPA under TSCA. Persons who would use unique identifiers assigned by the Agency to seek information may also be affected by this action. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers, importers, or processors of chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. TSCA Section 14 Requirement To Assign a ''Unique Identifier''

The June 22, 2016, amendments to TSCA by the Frank R. Lautenberg Chemical Safety for the 21st Century Act added a requirement in TSCA section 14(g)(4) for EPA to, among other things, ''assign a unique identifier to each specific chemical identity for which the Administrator approves a request for protection from disclosure.'' EPA is required to use the ''unique identifier assigned under this paragraph to protect the specific chemical identity in information that the Administrator has made public'' and to ''apply that identifier consistently to all information relevant to the applicable chemical substance,'' including ''any nonconfidential information received by the Administrator with respect to a

chemical substance . . . while the specific chemical identity of the chemical substance is protected from disclosure.'' 15 U.S.C. 2613(g)(4).

The requirements to assign a unique identifier and the unreconciled requirements concerning application of the unique identifier and protection of CBI are more fully discussed in the **Federal Register** document published previously. (See 82 FR 21386; May 8, 2017; hereafter ''May 8 **Federal Register** document''.) EPA has noted drawbacks to each of the two alternative approaches discussed in the May 8 **Federal Register** document.

EPA has developed a third alternative approach for reconciling the competing requirements of TSCA section 14(g), and now invites public comment on this new alternative.

A brief explanation of CBI claims for chemical identity provides context for understanding the potential effects of applying a unique identifier. TSCA section 14 permits a person to assert a CBI claim to seek to protect from public disclosure certain information in a submission, including a specific chemical identity. A CBI claim for specific chemical identity is intended to protect from disclosure the existence of the chemical substance and/or the fact that the chemical substance is (or is intended to be) manufactured by any person for commercial purposes in the United States (note that under TSCA, the term ''manufacture'' includes import).

When a chemical identity on the TSCA Inventory (Inventory) is claimed as CBI, then the chemical substance is maintained on the confidential portion of the Inventory. Conversely, a specific chemical identity that appears on the public portion of the Inventory, and is therefore known to be (or to have been) manufactured for commercial purposes in the United States, is generally not eligible for confidential protection (see, *e.g.,* Chemical Data Reporting regulations at 40 CFR 711.30(b)). If another company reveals that they manufacture the substance for commercial purposes, such as in a non-CBI submission filed under TSCA, the chemical identity is no longer eligible for confidential protection, and a CBI claim for chemical identity would be denied upon evaluation. Because the meaning of a CBI claim for chemical identity is limited, companies that wish to protect other information in a submission (such as company identity or specific information regarding the use, function, or application of that chemical substance) should claim that specific information as CBI rather than (or in addition to) chemical identity.

B. Third Alternative Approach

Under this approach, EPA would assign one unique identifier (UID) per chemical substance. In most cases EPA would apply the UID to all non-confidential information concerning the same chemical substance, from any company. However, in a small number of cases, EPA would not apply the UID to some non-confidential documents, in order to preserve approved CBI claims for specific chemical identity where the non-confidential document itself does not undermine the CBI claim, but EPA's application of the UID to that document would result in a linkage that does undermine the CBI claim. The basic criterion for application of the UID to submissions made by different submitters is that *the Agency's act of applying the UID must not disclose to the public the confidential specific chemical identity that the UID was assigned to protect.*

Specifically, prior to applying a UID to public versions of documents concerning the same substance, and filed by different submitters, those documents would be reviewed for presence of the specific chemical identity. If the specific chemical identity (*e.g.,* Chemical Abstracts Service (CAS) name or CAS number) appears in any of the documents, EPA would revisit the CBI claim in the remaining document(s) to assure that the claim is unexpired and otherwise still valid. If the CBI claim remains valid, EPA would not apply the UID to the document that reveals the specific chemical identity, in order to preserve the CBI claim in the other document(s) (if the claim has expired, been withdrawn, or appears no longer valid, EPA would act in accordance with section 14(f)(2)(B) and/or 14(g)(4)(D), as appropriate). All of the documents would be available to the public, and the specific chemical identity would be revealed in the document where it was not claimed as CBI—the document revealing the specific chemical identity would simply not be connected by the UID to the other document(s) where the specific chemical identity is CBI.

For example, Company A files a Premanufacture Notice (PMN) and later, a Notice of Commencement (NOC), claiming chemical identity as CBI to protect from disclosure the fact that the chemical is now being manufactured for commercial purposes in the United States and hence is being added to the Inventory. EPA approves the CBI claim and assigns a UID. Company A subsequently files a section 8(e) notice concerning the same substance, claiming chemical identity as CBI again. The UID is applied to that submission as well. Sometime later, Company B files a section 8(e) notice on the same substance, which it asserts it is using for research and development (R&D) purposes, but does not claim chemical identity as CBI. EPA revisits Company A's original CBI claim and confirms that it is not expired, has not been withdrawn, and has not been denied. Company B's submission does not reveal that the substance is on the Inventory or that it is in commerce (as other than an R&D substance). If EPA applied the UID to Company B's submission, that act would link Company B's section 8(e) notice to Company A's NOC, revealing that the specific chemical identity in Company B's section 8(e) notice is also the subject of an NOC and has therefore been manufactured for commercial purposes, and is on the Inventory. Thus, EPA's linkage of the two documents through the applied UID—as opposed to any information contained in the non-confidential document itself—would undermine the previously approved CBI claim for chemical identity. EPA would not apply the UID to Company B's submission in this case, to preserve Company A's CBI claim.

By way of contrast, if Company B's non-confidential section 8(e) notice itself revealed that the chemical substance was manufactured for commercial purposes in the United States—for instance, if the filing were an incident report relating to the commercial manufacture or use of that chemical substance, as opposed to an R&D exploration as originally described—then this would indicate that Company A's CBI claim may no longer be valid, and EPA would reevaluate the prior CBI claim in accordance with TSCA section 14(f)(2)(B) and/or 14(g)(4)(D), as appropriate.

EPA expects that exceptions to application of the UID will be fairly rare. For example, in reviewing all non-confidential section 8(e) submissions submitted over the past 5 years that included a CAS number (such that Inventory status can be readily checked), EPA found that fewer than 4% of these submissions mentioned substances that are currently on the confidential portion of the TSCA Inventory. Further, on preliminary review (*i.e.,* without completing a full CBI review and determination), it appeared that several of these submissions were under circumstances indicating that the original CBI claim may have been withdrawn or otherwise became invalid, suggesting that there may be even fewer exceptional cases

once EPA revisits the original CBI claim(s).

EPA acknowledges that this approach would occasionally create the possibility that the application of the UID to submissions from two or more companies may alert each company to the other's manufacture of the same chemical substance. However, such disclosures frequently arise in the normal course of business under TSCA, independent of UID. One reason for this is that a single accession number is typically assigned to each Inventory substance, and the accession number is often used for subsequent reporting, *e.g.,* under the Chemical Data Reporting (CDR) rule. Accession numbers are also included alongside other regulatory information, such as relevant section 5 significant new use rule (SNUR) citations, reported in public databases, such as the Substance Registry Service (SRS), and in the Inventory file that EPA makes available to the public (confidential inventory chemicals are listed by PMN number, accession number, and generic name). (See *https://www.epa.gov/tsca-inventory/how-access-tsca-inventory.*) Anyone that has an accession number for a given confidential inventory substance can query the CDR database and learn whether other companies have manufactured the chemical in CDR-reportable amounts, or query the public Inventory to find out the PMN number of the original submission.

While not every company reports under the CDR for every chemical that they manufacture (for example, specialty chemical companies may be making relatively small quantities of a substance, for a specialized use, and may not meet the reporting thresholds for CDR), the fact that a chemical substance is on the Inventory can be revealed in other ways. For example, a company that intends to manufacture a chemical substance for commercial purposes may file a bona fide submission under 40 CFR 720.25 to determine whether the chemical substance is already on the Inventory. The response to the bona fide inquiry, where EPA tells the submitter whether a chemical substance is on the confidential portion of the Inventory, would indicate whether another company has manufactured the chemical substance for commercial purposes in the United States. Also, submitters of section 5 notices that are subsequently deemed to be invalid because the substance is already on the Inventory and thus not subject to section 5 reporting requirements are informed of the Inventory status and are provided the accession number.

This third alternative approach would avoid several problems that EPA has identified with assigning more than one UID to a single substance (see ''Second Alternative Approach,'' May 8 **Federal Register** document (at 21389). One such problem is that assigning more than one UID per chemical substance would work against one of the purposes of assigning UIDs, to ''provide a specific reference identifier that protects the confidentiality claim to the specific chemical identity for the duration of the claim, while providing a way for the public to identify other filings pertaining to that substance.'' (See discussion in EPA's May 8 **Federal Register** document (at 21388).) In addition, it is unclear how multiple UIDs per chemical can be reconciled with the section 8(b)(7) requirement to publish and keep current a list of each confidential Inventory chemical, with its UID, accession number, generic name, and PMN number, where applicable. Any list that includes all of this information for each chemical would automatically link submissions from different companies by including all of the UIDs and/or by using the same accession number for multiple listings on the same chemical. (*i.e.,* if Chemical X has three UIDs, assigned to three different company claims, they would all be linked on this list, because Chemical X only has one accession number, and the list is supposed to include both accession number and UID.) It is also unclear to EPA how using one UID per chemical, per company, would operate in the case that a company or parts of a company changes ownership; how such UIDs would be applied to EPA-generated documents that are relevant to more than one submission; or how the multiple UIDs would be handled in the case that one company withdraws or permits its CBI claim to expire while the other does not. Using one UID per chemical, and applying that same UID to related documents in all but a very few exceptional cases, would avoid these issues.

C. Opportunity To Comment on Approach to Applying the Unique Identifier

EPA invites comment on the possible approach outlined above.

Authority: 15 U.S.C. 2613.

Dated: January 26, 2018.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2018–02548 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0687; FRL–9971–89]

Proposed Information Collection Request (EPA ICR No. 1204.13); Comment Request; Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Submission of Unreasonable Adverse Effects Information under FIFRA Section 6(a)(2)'' (EPA ICR No. 1204.13, OMB Control No. 2070–0039), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through September 30, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 9, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPP–2017–0687 online using *www.regulations.gov* (our preferred method), by email to *OPP_Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Amaris Johnson, Field and External Affairs Division, Office of Pesticide Programs, (7506P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 305–9542; email address: *johnson.amaris@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA

will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i.) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii.) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii.) enhance the quality, utility, and clarity of the information to be collected; and (iv.) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Section 6(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires pesticide registrants to submit information to the Agency which may be relevant to the balancing of the risks and benefits of a pesticide product. The statute requires the registrant to submit any factual information that it acquires regarding adverse effects associated with its pesticidal products, and it is up to the Agency to determine whether or not that factual information constitutes an unreasonable adverse effect. In order to limit the amount of less meaningful information that might be submitted to the Agency, the EPA has limited the scope of factual information that the registrant must submit. The Agency's regulations at 40 CFR part 159 provide a detailed description of the reporting obligations of registrants under FIFRA section 6(a)(2).

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this ICR include anyone who holds or has ever held a registration for a pesticide product issued under FIFRA Section 3 or 24(c). The North American Industrial Classification System (NAICS) is 325300 (Pesticide, Fertilizer and Other Agricultural Chemical Manufacturing).

Respondent's obligation to respond: Mandatory (FIFRA 6(a)(2)).

Estimated number of respondents: 1,452 (total).

Frequency of response: On occasion.

Total estimated burden: 301,118 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $19,999,815 (per year).

Changes in Estimates: There is an increase of 71,778 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the expectation that the number of responses will increase by 16% from 93,000 in the last ICR approval to approximately 108,000 for this ICR renewal. The increase is due to EPA's revised expectations regarding the number of incident reports that will be submitted to the Agency, which reflects historical information on the number of responses received. The increase in the number of incident reports has also prompted the need for additional information discussed in section 4 of the supporting statement. Since the last ICR was approved, the EPA has found it necessary to request additional data in certain subject areas under 40 CFR 159. First, due to a significant increase in the number of adverse incidents for spot-on domestic animal pet products from several registrants, EPA began requiring more standardized post-market surveillance reporting on adverse effects and submission of sales information, so the Agency can better evaluate incident rates. Second, the Agency requested additional information from the registrant of an herbicide to help explain circumstances for incidents of alleged tree and plant damage. Finally, new concerns about neonicotinoid pesticides and the loss of bee colonies led to EPA's request for more documentation from registrants for these products.

Next Step in the Process for this ICR: EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 11, 2018.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2018–02547 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2005–0530; FRL–9974–07–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Application for Reference and Equivalent Method Determination (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Application for Reference and Equivalent Method Determination (Renewal)'' (EPA ICR No. 0559.13, OMB Control No. 2080–0005) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through February 28, 2018. Public comments were previously requested via the **Federal Register** on September 6, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before March 12, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–ORD–2005–0530, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.*

Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Robert W. Vanderpool, Environmental Protection Agency, Exposure Methods and Measurements Division, Air Quality Branch, Mail Drop D205–03, Research Triangle Park, NC 27711; telephone number: 919–541–7877; fax number: 919–541–4848; email address: *Vanderpool.Robert@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: To determine compliance with the NAAQS, State air monitoring agencies are required to use, in their air quality monitoring networks, air monitoring methods that have been formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR part 53. A manufacturer or seller of an air monitoring method (*e.g.,* an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR part 53. The EPA uses this information, under the provisions of Part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter ($PM_{2.5}$) and coarse particulate matter ($PM_{10-2.5}$), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods. Submission of some information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as confidential business information by the applicant will be protected in full accordance with 40 CFR part 53.15 and all applicable provisions of 40 CFR part 2.

Form numbers: None.

Respondents/affected entities: Private manufacturers.

Respondent's obligation to respond: Required to obtain the benefit of EPA designation under 40 CFR part 53.

Estimated number of respondents: 22 (total).

Frequency of response: On occasion.

Total estimated burden: 7492 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $687,044 (per year), includes $140,121 annualized capital or operation & maintenance costs.

Changes in the estimates: There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2018–02542 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9974–22–OECA]

National Environmental Justice Advisory Council; Notification of Public Teleconference and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will meet on the dates and times described below. This meeting is open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about registering to attend the meeting or to provide public comment, please see ''REGISTRATION'' under **SUPPLEMENTARY INFORMATION**. Due to a limited number of telephone lines, attendance will be on a first-come, first served basis. Pre-registration is required.

DATES: The NEJAC will host a public teleconference meeting on Thursday, March 8, 2018, starting at 3:30 p.m. Eastern Time. The meeting discussion will focus on several topics including, but not limited to, the discussion and deliberation of draft reports from the NEJAC Youth Perspectives on Climate Change Workgroup and the NEJAC Environmental Justice and Water Infrastructure Finance and Capacity Work Group.

Public comment period relevant to the specific issues being considered by the NEJAC (see **SUPPLEMENTARY INFORMATION**) is scheduled for Thursday, March 8, 2018, starting at 5:30 p.m. Eastern Time. Members of the public who wish to participate during the public comment period are highly encouraged to pre-register by 11:59 p.m., Eastern Time on March 5, 2018.

FOR FURTHER INFORMATION CONTACT: Questions or correspondence concerning the public teleconference meeting should be directed to Karen L. Martin, U.S. Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW (MC2201A), Washington, DC 20460; by telephone at 202–564–0203; via email at *martin.karenl@epa.gov;* or by fax at 202–564–1624. Additional information about the NEJAC is available at *https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council.*

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee ''will provide independent advice and recommendations to the Administrator about broad, crosscutting issues related to environmental justice. The NEJAC's efforts will include evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement and economic issues related to environmental justice.''

Registration

Registration for the March 9, 2018, pubic meeting teleconference option will be processed at *https://nejac-public-teleconference-march-8-2018.eventbrite.com.* Pre-registration is required. Registration for the March 8,

2018, public meeting teleconference closes at 11:59 p.m., Eastern Time on Monday, March 5, 2018. The deadline to sign up to speak during the public comment period, or to submit written public comments, is 11:59 p.m., Eastern Time on Monday, March 5, 2018. When registering, please provide your name, organization, city and state, email address, and telephone number for follow up. Please also indicate whether you would like to provide public comment during the meeting, and whether you are submitting written comments before the Monday, March 5, 2018, deadline.

A. Public Comment

Individuals or groups making remarks during the public comment period will be limited to seven (7) minutes. To accommodate the number of people who want to address the NEJAC, only one representative of a particular community, organization, or group will be allowed to speak. Written comments can also be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of speaker; name of organization/community; city and state; and email address; brief description of the concern, and what you want the NEJAC to advise EPA to do. Written comments received by registration deadline, will be included in the materials distributed to the NEJAC prior to the teleconference. Written comments received after that time will be provided to the NEJAC as time allows. All written comments should be sent to Karen L. Martin, EPA, via email at *nejac@epa.gov.*

B. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance

For information about access or services for individuals requiring assistance, please contact Karen L. Martin, at (202) 564–0203 or via email at *martin.karenl@epa.gov.* To request special accommodations for a disability or other assistance, please submit your request at least fourteen (14) working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, email, or phone/fax number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: February 1, 2018.

Matthew Tejada,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2018–02549 Filed 2–7–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0550 and 3060–0560]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 9, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0550.

Title: Local Franchising Authority Certification, FCC Form 328; Section 76.910, Franchising Authority Certification.

Form No.: FCC Form 328.

Type of Review: Extension of a currently approved collection.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 7 respondents; 13 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in section 3 of the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 543), as well as sections 4(i), 4(j), and 623 of the Communications Act of 1934, as amended, and section 111 of the STELA Reauthorization Act of 2014.

Total Annual Burden: 26 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On June 3, 2015, the Commission released a Report and Order, MB Docket No. 15–53; FCC 15–62. The Report and Order adopted a rebuttable presumption that cable operators are subject to competing provider effective competition. The information collection requirements have not changed since they were last approved by the Office of Management and Budget (OMB). The information collection requirements consist of:

FCC Form 328. Pursuant to section 76.910, a franchising authority must be certified by the Commission to regulate the basic service tier and associated equipment of a cable system within its jurisdiction. To obtain this certification, the franchising authority must prepare and submit FCC Form 328. The Report and Order revises section 76.910 to require a franchising authority filing Form 328 to submit specific evidence demonstrating its rebuttal of the presumption in section 76.906 that the cable system is subject to competing provider effective competition pursuant to section 76.905(b)(2). The franchising authority bears the burden of submitting evidence rebutting the presumption that competing provider effective competition, as defined in section 76.905(b)(2), exists in the franchise area. Unless a franchising authority has actual knowledge to the contrary, it may rely on the presumption in section 76.906 that the cable system is not

subject to one of the other three types of effective competition.

Evidence establishing lack of effective competition. If the evidence establishing the lack of effective competition is not otherwise available, section 76.910(b)(4) provides that franchising authorities may request from a multichannel video programming distributor (''MVPD'') information regarding the MVPD's reach and number of subscribers. An MVPD must respond to such request within 15 days. Such responses may be limited to numerical totals.

Franchising authority's obligations if certified. Section 76.910(e) of the Commission's rules currently provides that, unless the Commission notifies the franchising authority otherwise, the certification will become effective 30 days after the date filed, provided, however, that the franchising authority may not regulate the rates of a cable system unless it: (1) Adopts regulations (i) consistent with the Commission's regulations governing the basic tier and (ii) providing a reasonable opportunity for consideration of the views of interested parties, within 120 days of the effective date of the certification; and (2) notifies the cable operator that the franchising authority has been certified and has adopted the required regulations.

OMB Control Number: 3060–0560.

Title: Section 76.911, Petition for Reconsideration of Certification.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 15 respondents; 25 responses.

Estimated Time per Response: 2–10 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 130 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On June 3, 2015, the Commission released a Report and Order, MB Docket No. 15–53; FCC 15–62. The Report and Order adopted a rebuttable presumption that cable operators are subject to competing provider effective competition. Reversing the previous rebuttable presumption of no effective competition and adopting the procedures discussed in the Report and Order will result in changes to the information collection burdens.

The information collection requirements consist of: Petitions for reconsideration of certification, oppositions and replies thereto, cable operator requests to competitors for information regarding the competitor's reach and number of subscribers if evidence establishing effective competition is not otherwise available, and the competitors supplying this information. They have not changed since they were last approved by OMB.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–02553 Filed 2–7–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010071–046.

Title: Cruise Lines International Association Agreement.

Parties: Acromas Shipping, Ltd./Saga Shipping; Aida Cruises; American Cruise Lines, Inc.; Azamara Cruises; Carnival Cruise Lines; Celebrity Cruises, Inc.; Celestyal Cruises; Costa Cruise Lines; Crystal Cruises; Cunard Line; Disney Cruise Line; Dream Cruises Management Ltd.; Hapag-Lloyd Kreuzfahrten Gmbh; Holland America Line; Marella Cruise c/o TUI Group; MSC Cruises; NCL Corporation; Oceania Cruises; P&O Cruises; P&O Cruises Australia; Paul Gauguin Cruises; Pearl Seas Cruises; PONANT Yacht Cruises & Expeditions; Princess Cruises; Pullmantur Cruises Ship Management Ltd.; Regent Seven Seas Cruises; Royal Caribbean International; Seabourn Cruise Line; SeaDream Yacht Club; Silversea Cruises, Ltd.; Star Cruises (HK) Limited; TUI Cruises Gmbh; Virgin Yoyages; and Windstar Cruises.

Filing Party: Carolyn J. Kaye, Esq.; Kaye, Rose & Partners, LLP; Emerald Plaza, 402 West Broadway, Suite 1890; San Diego, CA 92101–8508.

Synopsis: The amendment updates the membership of the Agreement, specifies the extent that certain aggregated information can be gathered and distributed among members and through third parties, and clarifies the definitions of ''Membership, Associate Membership, and Affiliation.''

By Order of the Federal Maritime Commission.

Dated: February 5, 2018.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2018–02524 Filed 2–7–18; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011550–017.

Title: ABC Discussion Agreement.

Parties: King Ocean Services Limited, Inc., and Seaboard Marine Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor; 1200 Nineteenth Street NW, Washington, DC 20036.

Synopsis: The amendment deletes Crowley Caribbean Services LLC as a party to the Agreement.

Agreement No.: 012426–002.

Title: The OCEAN Alliance Agreement.

Parties: American President Lines, Ltd.; APL Co. Pte. Ltd.; CMA CGM S.A.; COSCO Shipping Lines Co., Ltd.; COSCO Shipping Lines (Europe) GmbH; Evergreen Line Joint Service Agreement; Orient Overseas Container Line Limited; and OOCL (Europe) Limited.

Filing Party: Robert Magovern; Cozen O'Connor; 1200 Nineteenth Street NW, Washington, DC 20036.

Synopsis: The amendment revises Article 2 of the Agreement to add COSCO SHIPPING Lines (Europe) GmbH as a party to the Agreement.

COSCO SHIPPING Lines (Europe) GmbH and COSCO SHIPPING Lines Co., Ltd. shall be treated as one party for all purposes under the Agreement.

Agreement No.: 011261–011.

Title: ACL/WWL Agreement.

Parties: Atlantic Container Line A.B.; and Wallenius Wilhelmsen Logistics AS.

Filing Party: Wayne Rohde; Cozen O'Connor; 1200 Nineteenth Street NW, Washington, DC 20036.

Synopsis: The amendment revises the amount of space to be chartered, adds the Atlantic Coast of Canada to the geographic scope of the Agreement, adjusts the notice required to terminate the Agreement in certain circumstances, and deletes obsolete material from the Agreement. It also updates the address of Atlantic Container Line.

Agreement No.: 012474–001.

Title: ONE/ELJSA Space Charter Agreement.

Parties: Ocean Network Express Pte. Ltd. and Evergreen Line Joint Service Agreement.

Filing Party: Joshua Stein; Cozen O'Connor; 1200 Nineteenth Street NW, Washington, DC 20036.

Synopsis: The amendment revises the Agreement to provide for the transition that will occur following the combination of the container liner operations of Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Nippon Yusen Kaisha into a new company known as Ocean Network Express Pte. Ltd. effective April 1, 2018. Accordingly, the name of the Agreement is changed to the ONE/ELJSA Space Charter Agreement and Ocean Network Express Pte. Ltd. is added as a party.

Agreement No.: 012410–002.

Title: WWL/Hyundai Glovis Space Charter Agreement.

Parties: Wallenius Wilhelmsen Logistics AS and Hyundai Glovis Co. Ltd..

Filing Party: Wayne Rohde; Cozen O'Connor; 1200 Nineteenth Street NW, Washington, DC 20036.

Synopsis: The amendment adds the Pacific Coast of the United States to the scope of the Agreement and revises Article 5.1 to authorize reciprocal (rather than one-way) space chartering.

By Order of the Federal Maritime Commission.

Dated: January 26, 2018.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2018–02478 Filed 2–7–18; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: ORR–6, ORR Requirements for Refugee Cash Assistance; and Refugee Medical Assistance (45 CFR part 400).

OMB No.: 0970–0036.

Description: As required by section 412(e) of the Immigration and Nationality Act, the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), is requesting the information from Form ORR–6 to determine the effectiveness of the State cash and medical assistance, and social services programs. State-by-State Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) utilization rates derived from Form ORR–6 are calculated for use in formulating program initiatives, priorities, standards, budget requests, and assistance policies. ORR regulations require that State Refugee Resettlement and Wilson-Fish agencies, and local and Tribal governments complete Form ORR–6 in order to participate in the above-mentioned programs.

Respondents: State governments, Replacement Designees, and Wilson/Fish Alternative Projects.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–6 Performance Report	57	2	8	912

Estimated Total Annual Burden Hours: 912.

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. 2018–02516 Filed 2–7–18; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Preventing and Addressing Intimate Violence When Engaging Dads.

OMB Number: New Collection.

Description: The Administration for Children and Families (ACF), Office of Planning, Research, and Evaluation (OPRE) proposes to collect information as part of the Preventing and Addressing Intimate Violence when Engaging Dads (PAIVED) study. Since 2006, the Healthy Marriage and Responsible Fatherhood (HMRF) initiative has funded programs that play a key role in helping the Office of Family Assistance

(OFA) achieve its goals to foster economically secure households and communities for the well-being and long-term success of children and families. The purpose of the PAIVED study is to better understand the prevalence of intimate partner violence (IPV) experienced by the population of fathers served by Responsible Fatherhood (RF) programs, and the services that federally-funded RF programs are providing to address and contribute to the prevention of IPV among its participants. The proposed data collection will include whether IPV content is included in RF programs, the types of activities they are using to address IPV, and related successes and challenges. Other collected data will include barriers to addressing IPV in RF programs, the relevance of addressing IPV with fathers, fathers' reactions to this programming, and what types of partnerships RF programs have with other agencies to address IPV. This information will be collected through interviews conducted over the phone and in-person with RF grantee program staff and community partners. This information will be critical to inform future efforts to address and contribute to the prevention of IPV through RF programming.

Respondents: Responsible Fatherhood grantee program staff (*e.g.,* program directors and facilitators) and community partners.

ANNUAL BURDEN ESTIMATES

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
RF grantee/community partner screening and participant recruitment	37	1	1	37
RF grantee program staff semi-structured interview	23	1	1.5	35
Community partner semi-structured interview	10	1	1.5	15

Estimated Total Annual Burden Hours: 87.

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. 2018–02476 Filed 2–7–18; 8:45 am]

BILLING CODE 4184–73–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB NO.: 0970–0460]

Proposed Information Collection Activity; Comment Request; Healthy Marriage and Responsible Fatherhood Performance Measures and Additional Data Collection (Part of the Fatherhood and Marriage Local Evaluation and Cross-Site (FaMLE Cross-Site) Project)—Extension

Description

Background

For decades various organizations and agencies have been developing and operating programs to strengthen families through healthy marriage and relationship education and responsible fatherhood programming. The Administration for Children and Families (ACF), Office of Family Assistance (OFA), has had administrative responsibility for federal funding of such programs since 2006 through the Healthy Marriage (HM) and Responsible Fatherhood (RF) Grant Programs. The authorizing legislation for the programs may be found in Section 403(a)(2) of the Social Security Act [1].

Extension of Current Approval

The Offices of Family Assistance (OFA) and Planning, Research and Evaluation (OPRE) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) are proposing to extend performance measure and other data collection activities, in service to the HM and RF programs. This data collection is part of the Fatherhood and Marriage Local Evaluation and Cross-site (FaMLE Cross-site) project, whose purpose is to support high quality data collection, strengthen local evaluations, and conduct cross-site analysis for the Responsible Fatherhood and Healthy Marriage grantees. ACF is requesting comment on the following data collection, which has been ongoing under OMB #0970–0460 since 2016. There are no changes proposed to the information collection, we are only requesting an extension to continue data collection with the current grantees through 2020.

Performance measures. ACF is proposing to extend collection of a set of performance measures that are collected by all grantees. These measures collect standardized information in the following areas:

- Applicant characteristics;
- Program operations (including program characteristics and service delivery); and
- Participant outcomes:
  - Entrance survey, with four versions: (1) Healthy Marriage Program Pre-Program Survey for Adult-Focused Programs; (2) Healthy Marriage Program Pre-Program Survey for Youth-Focused Programs; (3) Responsible Fatherhood

Program Pre-Program Survey for Community-Based-Fathers; and (4) Responsible Fatherhood Program Pre-Program Survey for Incarcerated Fathers.

○ Exit survey, with four versions: (1) Healthy Marriage Program Post-Program Survey for Adult-Focused Programs; (2) Healthy Marriage Program Post-Program Survey for Youth-Focused Programs; (3) Responsible Fatherhood Program Post-Program Survey for Community-Based-Fathers; and (4) Responsible Fatherhood Program Post-Program Survey for Incarcerated Fathers.

These measures were developed per extensive review of the research literature and grantees' past measures.

Grantees are required to submit data on these standardized measures on a regular basis (*e.g.,* quarterly). In addition to the performance measures mention above, ACF proposes to extend collection for these data submissions:

• Semi-annual Performance Progress Report (PPR), with two versions: (1) Performance Progress Report for Healthy Marriage Programs, and (2) Performance Progress Report for Responsible Fatherhood Programs; and

• Quarterly Performance Report (QPR), with two versions: (1) Quarterly Performance Progress Report for Healthy Marriage Programs, and (2) Quarterly Performance Progress Report for Responsible Fatherhood Programs.

A management information system has been implemented which improves efficiency and the quality of data, and makes reporting easier.

Additional data collection. We also seek to extend the approval to collect information from a sub-set of grantees on how they designed and implemented their programs (information on outcomes associated with programs will also be assessed), per the following protocols:

• Staff interview protocol on program design (will be collected from about half of all grantees);

• Staff interview protocols on program implementation (will be collected from about 10 grantees); and

• Program participant focus group protocol (will be conducted with about 10 grantees).

Respondents: Responsible Fatherhood and Healthy Marriage Program grantees (*e.g.,* grantee staff) and program applicants and participants—participants are called ''clients.''

ANNUAL BURDEN ESTIMATES

Instrument	Respondent	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Data Collection by Grantees (DCS, or Data Collected by Sites)						
Instrument DCS–1: Applicant characteristics.	Program applicants	265,838	87,504	1	0.25	21,876
	Program staff	360	360	243	0.10	8,750
Instrument DCS–2: Grantee program operations.	Program staff	120	120	1	0.75	90
Instrument DCS–3: Service receipt in MIS.	Program staff	1,540	1,540	156	0.50	39,916
Instrument DCS–4: Entrance and Exit Surveys.	Program clients (Entrance Survey; 4 versions).	239,493	79,831	1	0.42	33,529
	Program clients (Exit Survey; 4 versions).	132,087	44,029	1	0.42	18,492
	Program staff (Entrance and Exit surveys on paper).	60	20	1,285	0.30	7,712
Instrument DCS–5: Semi-annual report.	Program staff (2 versions)	120	120	2	3	720
Instrument DCS–6: Quarterly performance report.	Program staff (2 versions)	120	120	2	1	240
Data Collection by the Contractor (DCI, or Data collected by the Contractor Itself)						
Instrument DCI–1: Topic guide on program design.	Program staff	60	20	1	1	20
Instrument DCI–2: Topic guide on program implementation.	Program staff	300	100	1	1	100
Instrument DCI–3: Focus group protocol.	Program clients	801	267	1	1.50	401

Estimated Total Annual Burden Hours: 131,846.

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.

Reference

[1] *http://www.ssa.gov/OP_Home/ssact/title04/0403.htm.*

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–02494 Filed 2–7–18; 8:45 am]

BILLING CODE 4184–35–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–E–1664]

Determination of Regulatory Review Period for Purposes of Patent Extension; JUBLIA

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 JUBLIA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application 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 9, 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 August 7, 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 9, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of April 9, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–E–1664 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; JUBLIA.'' 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 JUBLIA (efinaconazole). JUBLIA is indicated for the topical treatment of onychomycosis of the toenails due to *Tricophyton rubrum* and *Trichophyton mentagrophytes.* Subsequent to this approval, the USPTO received a patent term restoration application for JUBLIA (U.S. Patent No. 7,214,506) from Kaken Pharmaceutical Co., Ltd., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 4, 2015, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of JUBLIA 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 JUBLIA is 2,521 days. Of this time, 1,840 days occurred during the testing phase of the regulatory review period, while 681 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:* July 14, 2007. FDA has verified the applicant's claim that the date the investigational new drug application (IND) became effective was on July 14, 2007.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* July 26, 2012. FDA has verified the applicant's claim that the new drug application (NDA) for JUBLIA (NDA 203567) was initially submitted on July 26, 2012.

3. *The date the application was approved:* June 6, 2014. FDA has verified the applicant's claim that NDA 203567 was approved on June 6, 2014.

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 application for patent extension, this applicant seeks 1,601 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 No. 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 31, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–02522 Filed 2–7–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: 0937–0191–30D]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before March 12, 2018.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When requesting information, please include the document identifier 0937–0191–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Application packets for Real Property for Public Health Purposes.

Type of Collection: Revision.

OMB No.: 0937–0191–30D—Office within OS—Office of Assistant Secretary for Administration, Program Support Center, Real Estate, Logistics and Operations Support, Federal Property Assistance Program.

Abstract: The Office of Assistant Secretary for Administration, Program Support Center Federal Property Assistance Program is requesting approval by OMB on a revision. Cited, 40 U.S.C. 550, as amended, provides authority to the Secretary of Health and Human Services to convey or lease surplus real property to States and their political subdivisions and instrumentalities, to tax-supported institutions, and to nonprofit institutions which, (except for institutions which lease property to assist the homeless) have been held exempt from taxation under Section 501(c)(3) of the 1954 Internal Revenue Code, and 501(c)(19) for veterans organizations, for public health purposes. Title V of the McKinney-Vento Homeless Assistance Act (Title V) extended the Secretary's authority to

include homeless assistance purposes as a permissible use under public health. The Federal Asset and Transfer Act of 2016 (Pub. L. 114–287) streamlined the Title V process bifurcating the application process. Transfers are made to transferees at little or no cost.

We are requesting that the collection be valid for three years.

Type of respondent: State and local governments and non-profit institutions use these applications to apply for excess/surplus, underutilized/unutilized and off-site government real property. These applications are used to determine if institutions/organizations are eligible to purchase, lease or use property under the provisions of the surplus real property program. Responds are intermittent—only when an eligible organization requests acquisition of identified Federal surplus real property.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Applications for surplus Federal real property	15	1	200	3,000
Total	15	1	200	3,000

Terry S. Clark,

Office of the Secretary, Asst. Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2018–02477 Filed 2–7–18; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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: National Center for Advancing Translational Sciences Special Emphasis Panel; R13 Conference Grants Review.

Date: March 6, 2018.

Time: 1:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1037, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; TRND—Contract Review.

Date: March 7, 2018.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, Room 1037, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, 301–894–7319, *khanr2@csr.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Platform Delivery Technologies for Nucleic Acid Therapeutics.

Date: March 29, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1065, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Carol Lambert, Ph.D., Acting Director, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: February 1, 2018.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02492 Filed 2–7–18; 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: Pain Mechanisms.

Date: March 1, 2018.

Time: 8:00 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: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Integrative Neuroscience.

Date: March 1, 2018.

Time: 1:00 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, (Virtual Meeting).

Contact Person: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892–7814, 301–435–1787, *borzanj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncological Sciences.
Date: March 5–6, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.
Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–5902, *caojn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Drugs of Abuse and Motivated Behavior.
Date: March 7–8, 2018.
Time: 8:00 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: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *selmanom@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS-associated Opportunistic Infections and Cancer Study Section.
Date: March 8, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.
Contact Person: Eduardo A. Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Aging and Development, Auditory, Vision and Low Vision Technologies.
Date: March 8–9, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Torrance Redondo Beach Marriott, 3635 Fashion Way, Torrance, CA 90503.
Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AA–18–007—Dynamic Neuroimmune Interactions in the Transition from Normal CNS Function to Disorders.
Date: March 8–9, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Alexandrian, Autograph Collection, 480 King Street, Alexandria, VA 22314.
Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 4189, Bethesda, MD 20892, (301) 827–7083, *sultanaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.
Date: March 8–9, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neuroscience, Cognition and Perception.
Date: March 8–9, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.
Contact Person: Sharon S. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.
Date: March 8–9, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.
Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.
Date: March 8–9, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Grand Hyatt Seattle, 721 Pine Street, Seattle, WA 98101.
Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening.
Date: March 8–9, 2018.
Time: 9:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–044: Image-Guided Drug Delivery (R01).
Date: March 8, 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.
Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vocal Fold and Motor Disorders.
Date: March 8, 2018.
Time: 3:00 p.m. to 5:30 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: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830, *unja.hayes@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.
Date: March 9, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Agenda: Ritz-Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.
Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Understanding Structure and Function of CNS Small Blood and Lymphatic Vessels: Technology and Approach Innovation, Target Identification, Biomarkers, and Disease Mechanisms.
Date: March 9, 2018.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street NW, Washington, DC 20036.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, *zhaow@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: February 2, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02491 Filed 2–7–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health (NIH)

National Institute of Mental Health (NIMH) Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of an Interagency Autism Coordinating Committee (IACC or Committee) meeting.

The purpose of the IACC meeting is to discuss business, agency updates, and issues related to autism spectrum disorder (ASD) research and services activities. The meeting will be open to the public and will be accessible by webcast and conference call.

Name of Committee: Interagency Autism Coordinating Committee.

Type of Meeting: Open Meeting.

Date: Thursday, April 19, 2018.

Time: 9:00 a.m. to 5:00 p.m. * Eastern Time * Approximate end time.

Agenda: To discuss business, updates, and issues related to ASD research and services activities.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Webcast Live: https://videocast.nih.gov.

Conference Call: Dial: 800–857–9791.

Access: Access code: 8959122.

Cost: The meeting is free and open to the public.

Registration: A registration web link will be posted on the IACC website (*www.iacc.hhs.gov*) prior to the meeting. Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and on a first come, first served basis. Onsite registration will also be available.

Deadlines: Notification of intent to present oral comments: Friday, April 6, 2018 by 5:00 p.m. ET, *Submission of written/electronic statement for oral comments:* Tuesday, April 10, 2018 by 5:00 p.m. ET, *Submission of written comments:* Tuesday, April 10, 2018 by 5:00 p.m. ET.

For IACC Public Comment guidelines please see: *https://iacc.hhs.gov/meetings/public-comments/guidelines/*.

Access: Medical Center (Red Line Metro) in combination with a 26-minute walk or short taxi ride; parking available at the hotel for a fee of our about ($16.00).

Contact Person: Ms. Angelice Mitrakas, Office of Autism Research Coordination, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 6182A, Bethesda, MD 20892–9669, Phone: 301–435–9269, Email: *IACCPublicInquiries@mail.nih.gov*.

Public Comments

Any member of the public interested in presenting oral comments to the IACC must notify the Contact Person listed on this notice by 5:00 p.m. ET on Friday, April 6, 2018 with their request to present oral comments at the meeting, and a written/electronic copy of the oral presentation/statement must be submitted by 5:00 p.m. ET on Tuesday, April 10, 2018.

A limited number of slots for oral comment are available, and in order to ensure that as many different individuals are able to present throughout the year as possible, any given individual only will be permitted to present oral comments once per calendar year (2018). Only one representative of an organization will be allowed to present oral comments in any given meeting; other representatives of the same group may provide written comments. If the oral comment session is full, individuals who could not be accommodated are welcome to provide written comments instead. Comments to be read or presented in the meeting will be assigned a 3–5 minute time slot depending on the number of comments, but a longer version may be submitted in writing for the record. Commenters going beyond their allotted time in the meeting may be asked to conclude immediately in order to allow other comments and presentations to proceed on schedule.

Any interested person may submit written public comments to the IACC prior to the meeting by emailing the comments to *IACCPublicInquiries@mail.nih.gov* or by submitting comments at the web link: *https://iacc.hhs.gov/meetings/public-comments/submit/index.jsp* by 5:00 p.m. ET on Tuesday, April 10, 2018. The comments should include the name, address, telephone number, and when applicable, the business or professional affiliation of the interested person. NIMH anticipates written public comments received by 5:00 p.m. ET on Tuesday, April 10, 2018 will be presented to the Committee prior to the meeting for the Committee's consideration. Any written comments received after the 5:00 p.m. ET, April 10, 2018 deadline through April 17, 2018 will be provided to the Committee either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with privacy regulations and other applicable Federal policies. All written public comments and oral public comment statements received by the deadlines for both oral and written public comments will be provided to the IACC for their consideration and will become part of the public record. Attachments of copyrighted publications are not permitted, but web links or citations for any copyrighted works cited may be provided.

In the 2016–2017 IACC Strategic Plan, the IACC listed the ''Spirit of Collaboration'' as one of its core values, stating that, ''We will treat others with respect, listen with open minds to the diverse views of people on the autism spectrum and their families, thoughtfully consider community input, and foster discussions where participants can comfortably where participants can comfortably offer opposing opinions.'' In keeping with this core value, the IACC and the NIMH Office of Autism Research Coordination (OARC) ask that members of the public who provide public comments or participate in meetings of the IACC also seek to treat others with respect and consideration in their communications and actions, even when discussing issues of genuine concern or disagreement.

Remote Access

The meeting will be open to the public through a conference call phone number and webcast live on the internet. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the webcast or conference call, please send an email to *IACCPublicInquiries@mail.nih.gov* or call 240–668–0302. Individuals wishing to participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least five days prior to the meeting.

Security

Visitors will be asked to sign in and show one form of identification (for example, a government-issued photo ID, driver's license, or passport) at the

meeting registration desk during the check-in process. Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered.

Meeting schedule subject to change.

Information about the IACC is available on the website: *http://www.iacc.hhs.gov*.

Dated: February 2, 2018.

Melanie Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–02493 Filed 2–7–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–1006]

List of Vessels Prohibited From Entering or Operating Within the Navigable Waters of the United States, Pursuant to the Ports and Waterways Safety Act, as Amended by the Countering America's Adversaries Through Sanctions Act

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: This document announces the availability of a list of vessels that are generally prohibited from entering the navigable waters of the United States or transferring cargo in the United States. The list, which is developed by the Department of State, will be publicly available on the Coast Guard National Vessel Movement Center (NVMC) website at *www.nvmc.uscg.gov/CAATSA.aspx* and will be updated periodically on the website. The Ports and Waterways Safety Act, as amended by the Countering America's Adversaries Through Sanctions Act (CAATSA) generally prohibits the entry of vessels on this list, and generally prohibits the entry of vessels registered to a Flag State that retains in its registry a vessel identified on this list 180 days after the most recent publication. The CAATSA amendment also generally prohibits such vessels from transferring cargo in any port or place under the jurisdiction of the United States.

DATES: The list of vessels will be available on February 2, 2018, and will be updated periodically thereafter.

ADDRESSES: The list of prohibited vessels will be available online at *www.nvmc.uscg.gov/CAATSA.aspx.* This notice of availability can be viewed online, under docket USCG–2017–1006, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

If you have questions about this notice, call or email the Coast Guard's Headquarters Foreign & Offshore Vessel Compliance Division, 202–372–1232, *portstatecontrol@uscg.mil.*

SUPPLEMENTARY INFORMATION: On August 2, 2017, the President signed into law the Countering America's Adversaries Through Sanctions Act (CAATSA).[1] The law amends the North Korea Sanctions and Policy Enhancement Act of 2016[2] and the Ports and Waterways Safety Act (PWSA).[3] Section 315 of CAATSA adds § 16 to the Ports and Waterways Safety Act. This new section requires the Secretary of the Department in which the Coast Guard is operating, with the concurrence of the Secretary of State, to maintain timely information on the registrations of all foreign vessels over 300 gross tons that are known to be any of the following:

(1) Owned and operated by or on behalf of the Government of North Korea or a North Korean person.

(2) Owned or operated by or on behalf of any country identified by the President as a country that has not complied with the applicable United Nations Security Council resolutions (as such term is defined in 22 U.S.C. 9202).

(3) Owned or operated by or on behalf of any country in which a sea port is located, the operator of which the President has identified in the most recent report submitted under 22 U.S.C. 9225(a)(1)(A). As revised by section 314 of CAATSA, § 9225(a)(1) states that the President shall submit a report to Congress of countries and ports that knowingly do any of the following: (a) Significantly fail to implement or enforce regulations to inspect ships, aircraft, cargo, or conveyances in transit to or from North Korea, as required by applicable United Nations Security Council resolutions; (b) facilitate the transfer, transshipment, or conveyance of significant types or quantities of cargo, vessels, or aircraft owned or controlled by persons designated under applicable United Nations Security Council resolutions; or (c) facilitate any of the activities described in section 104(a) of the North Korea Sanctions and Policy Enhancement Act of 2016.

Not later than 180 days after the date of the enactment of CAATSA, and periodically thereafter, the Coast Guard is required to publish in the **Federal Register** a list of the vessels described above. The list will be publicly available on the NVMC website at *www.nvmc.uscg.gov/CAATSA.aspx,* beginning on February 2, 2018, and the Coast Guard will periodically publish a notice of availability in the **Federal Register** announcing updates.

Upon receiving an advance notice of arrival under 33 U.S.C. 1223(a)(5) from a vessel on the list, the Coast Guard will notify the vessel master that the vessel may not enter or operate in the navigable waters of the United States, or transfer cargo in any port or place under the jurisdiction of the United States, unless otherwise allowed by law. The Ports and Waterways Safety Act, as amended by CAATSA, provides for limited entry in certain circumstances, such as a specific determination from the U.S. Secretary of State, and does not restrict the right of innocent passage or the right of transit passage as recognized under international law.

This notice is issued under authority of 5 U.S.C. 552(a), § 315 of Public Law 115–44, and DHS Delegation 0170.1(II)(70).

Dated: February 2, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2018–02536 Filed 2–7–18; 8:45 am]

BILLING CODE 9110–04–P

[1] Public Law 115–44, August 2, 2017, 131 Stat 886.

[2] Public Law 114–122, February 18, 2016, 130 Stat 93.

[3] 33 U.S.C. 1221 *et seq.*

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0042]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Chemical Transportation Advisory Committee and its subcommittees will meet in Houston, TX, to discuss committee matters relating to the safe and secure marine transportation of hazardous materials. These meetings will be open to the public.

DATES: The Chemical Transportation Advisory Committee subcommittees will meet on Tuesday, March 6, 2018, from 9 a.m. to 5 p.m.; and on Wednesday, March 7, 2018, from 9 a.m. to 5 p.m. The full Committee will meet on Thursday, March 8, 2017, from 9 a.m. to 5 p.m. Please note that the

meetings may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at United States Coast Guard Sector Houston-Galveston, 13411 Hilliard St., Houston, TX 77034, *https://homeport.uscg.mil/port-directory/houston-galveston*

Pre-registration Information: Pre-registration is required for access to Sector Houston-Galveston. Foreign nationals participating will be required to pre-register no later than noon on February 2, 2018, to be admitted to the meeting. U.S. citizens participating will be required to pre-register no later than noon on February 20, 2018, to be admitted to the meeting. To pre-register, contact Lieutenant Commander Julie Blanchfield at *julie.e.blanchfield@uscg.mil* or (202) 372–1419. You will be asked to provide your name, telephone number, email, and company or group with which you are affiliated. If a foreign national, you must provide your country of citizenship, passport country, country of residence, place of birth, passport number, and passport expiration date. All attendees will be required to provide a REAL–ID Act compliant government-issued picture identification card in order to gain admittance to the base. For information on REAL ID and to check the compliance status of your state/territory, please see *https://www.dhs.gov/real-id* and *https://www.dhs.gov/real-id-public-faqs.*

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternate Designated Federal Officer as soon as possible using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want committee members to review your comment before the meeting, please submit your comments no later than February 28, 2018. We are particularly interested in comments on the issues in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and docket number USCG–2018–0042. Written comments must be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties with comment submission, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may review the Privacy Act and Security Notice for the Federal Docket Management System at *https://regulations.gov/privacyNotice.*

Docket Search: For access to the docket to read documents or comments related to this notice, go to *https://www.regulations.gov,* type ''USCG–2018–0042'' in the ''Search'' box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Julie Blanchfield, Alternate Designated Federal Officer of the Chemical Transportation Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, Telephone 202–372–1419, Fax 202–372–8380, or *julie.e.blanchfield@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee is established under the authority of Section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451. This Committee is established in accordance with and operates under the provisions of the Federal Advisory Committee Act (Title 5, United States Code, Appendix).

The Chemical Transportation Advisory Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Commandant of the United States Coast Guard on matters concerning the safe and secure marine transportation of hazardous materials, including industry outreach approaches. The Chemical Transportation Advisory Committee will respond to specific assignments and may conduct studies, inquiries, workshops, and seminars as the Commandant may authorize or direct.

Agendas of Meetings

Subcommittee Meetings on March 6 and 7, 2018

The subcommittee meetings will separately address the following tasks:

(1) *Task Statement 13–03:* Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel.

(2) *Task Statement 15–01:* Marine Vapor Control System Certifying Entities Guidelines update and Vapor Control System supplementary guidance for the implementation of the final rule.

(3) *Task Statement 17–01:* Hazardous Substance Response Plans for Tank Vessels and Facilities.

(4) *Task Statement 16–01:* Hazardous Cargo Transportation Security Subcommittee.

(5) *Task Statement 17–02:* Input to Support Regulatory Reform of Coast Guard Regulations—Executive Orders 13771 and 13783.

The task statements from the last committee meeting are located at Homeport at the following address: *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/ctac/subcommittees-and-working-groups.*

The agenda for each subcommittee meeting will include the following:

1. Review subcommittee task statements.
2. Work on tasks assigned in task statements mentioned above.
3. Public comment period.
4. Discuss and prepare any proposed recommendations for the Chemical Transportation Advisory Committee meeting on March 8, 2018, on tasks assigned in detailed task statements mentioned above.

Full Committee Meeting on March 8, 2018

The agenda for the Chemical Transportation Committee meeting on Thursday, March 8, 2018, is as follows:

1. Introductions and opening remarks.
2. Swear in newly appointed committee members, and thank outgoing members.
3. Review of October 5, 2017, meeting minutes and status of task items.
4. Coast Guard Leadership Remarks.
5. Chairman's and Designated Federal Officer's remarks.
6. Committee will review, discuss, and formulate recommendations on the following items:

a. *Task Statement 13–03:* Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel.

b. *Task Statement 15–01:* Marine Vapor Control System subcommittee.

c. *Task Statement 16–01:* Hazardous Cargo Transportation Security subcommittee.

d. *Task Statement 17–01:* Hazardous Substance Response Plans for Tank Vessels and Facilities.

e. *Task Statement 17–02:* Input to Support Regulatory Reform of Coast Guard Regulations—Executive Orders 13771 and 13783.

7. United States Coast Guard update on International Maritime Organization activities as they relate to the marine transportation of hazardous materials.
8. Presentation of interest related to safe and secure shipment of hazardous materials.
9. New business and subcommittee recommendation discussion.

10. Set next meeting date and location.

11. Set subcommittee meeting schedule.

12. Public comment period.

13. Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/ctac/full-committee-meetings* no later than March 2, 2018. Alternatively, you may contact Lieutenant Commander Julie Blanchfield as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

A public comment period will be held during each subcommittee and the full committee meeting concerning matters being discussed. Public comments will be limited to 3 minutes per speaker. Please note that the public comment period may end before the time indicated, following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker. Please note the meeting may adjourn early if the work is completed.

Dated: February 5, 2018.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2018–02510 Filed 2–7–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee management; request for applicants for appointment to the Federal Emergency Management Agency's Technical Mapping Advisory Council.

SUMMARY: The Federal Emergency Management Agency (FEMA) is requesting qualified individuals interested in serving on the Technical Mapping Advisory Council (TMAC) to apply for appointment. As provided for in the *Biggert-Waters Flood Insurance Reform Act of 2012,* the TMAC makes recommendations to the FEMA Administrator on how to improve, in a cost-effective manner, the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps (FIRMs) and risk data; and improve performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States. Applicants will be considered for one of ten vacancies on the TMAC. Appointments will be for terms beginning October 1, 2018, and lasting two years.

DATES: Applications will be accepted until 11:59 p.m. EST on March 12, 2018.

ADDRESSES: Applications for membership should be submitted by one of the following methods:

- *Email: FEMA–TMAC@fema.dhs.gov.*
- *Mail:* FEMA, Federal Insurance and Mitigation Administration, Risk Management Directorate, Attn: Mark Crowell, 400 C Street SW, Suite 313, Washington, DC 20472–3020.

FOR FURTHER INFORMATION CONTACT: Mark Crowell (Designated Federal Officer for the TMAC); FEMA, Federal Insurance and Mitigation Administration, Risk Management Directorate, 400 C Street SW, Suite 313, Washington, DC 20472–3020; telephone: (202) 646–3432; and email: *FEMA–TMAC@fema.dhs.gov.* The TMAC website is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: The TMAC is an advisory committee that was established by the *Biggert-Waters Flood Insurance Reform Act of 2012,* 42 U.S.C. 4101a, and in accordance with provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. App. (Pub. L. 92–463). The TMAC is required to make recommendations to FEMA on mapping-related issues and activities. This includes mapping standards and guidelines, performance metrics and milestones, map maintenance, interagency and intergovernmental coordination, map accuracy, funding strategies, and other mapping-related issues and activities. In addition, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

Members of the TMAC will be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using FIRMs. To the maximum extent practicable, FEMA will ensure that membership of the TMAC has a balance of Federal, State, local, Tribal, and private members, and includes geographic diversity.

FEMA is requesting qualified individuals who are interested in serving on the TMAC to apply for appointment. Applicants will be considered for appointment for ten vacancies on the TMAC, the terms of which start on October 1, 2018. Certain members of the TMAC, as indicated below, will be appointed to serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. Candidates selected for appointment as SGEs are required to complete a Confidential Financial Disclosure Form (Office of Government Ethics (OGE) Form 450). This form can be obtained by visiting the website of the Office of Government Ethics (*http://www.oge.gov*). Please do not submit this form with your application. Qualified applicants will be considered for one or more of the following membership categories with vacancies:

a. One representative of a State government agency that has entered into a cooperating technical partnership with the FEMA Administrator and has demonstrated the capability to produce FIRMs;

b. One member of a recognized professional surveying association or organization (SGE appointment);

c. One member of a recognized professional mapping association or organization (SGE appointment);

d. One member of a recognized professional engineering association or organization (SGE appointment);

e. One representative of a State national flood insurance coordination office;

f. Two representatives of local government agency that has entered into a cooperating technical partnership with the FEMA Administrator and has demonstrated the capability to produce FIRMs;

g. One member of a recognized floodplain management association or organization (SGE appointment);

h. One member of a recognized risk management association or organization (SGE appointment); and

i. One State mitigation officer (SGE appointment).

Members of the TMAC serve terms of office for two years. There is no application form. However, applications must include the following information:

- The applicant's full name,
- home and business phone numbers,
- preferred email address,
- home and business mailing addresses,
- current position title and organization,
- resume or curriculum vitae, and

• the membership category of interest (*e.g.,* member of a recognized professional association or organization representing flood hazard determination firms).

Applicants can submit a cover letter along with their resume to the listed contact (*i.e.* the POC listed in the Further Information section of the FR notice).

The TMAC shall meet as often as needed to fulfill its mission, but not less than twice a year. Members may be reimbursed for travel and per diem incurred in the performance of their duties as members of the TMAC. All travel for TMAC business must be approved in advance by the Designated Federal Officer.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all its recruitment actions. Current DHS and FEMA employees will not be considered for membership. Federally registered lobbyists will not be considered for SGE appointments.

Dated: January 31, 2018.

Roy Wright,

Associate Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 2018–02486 Filed 2–7–18; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0028; OMB No. 1660–0058]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Fire Management Assistance Grant Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Correction 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. FEMA is publishing this notice to correct a misstatement in a previous notice that this collection was a reinstatement, with change, of a currently approved information collection. This collection is actually being submitted to the Office of Management of Budget for review and clearance as an extension, without change, of a currently approved collection.

DATES: Comments must be submitted on or before February 26, 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 Allen Wineland, FMAG Program Manager, Office of Response & Recovery, FEMA, (202) 702–1472.

SUPPLEMENTARY INFORMATION: This proposed information collection notice previously published in the **Federal Register** on January 26, 2018 at 83 FR 3763 with a 30 day public comment period. The notice incorrectly stated that this collection was a reinstatement, with change, of a currently approved information collection. This collection is being submitted to the Office of Management of Budget for review and clearance as an extension, without change, of a currently approved collection.

Collection of Information

Title: Fire Management Assistance Grant Program.

Type of information collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0058.

Form Titles and Numbers: FEMA Form 078–0–1, Request for Fire Management Assistance Declaration; FEMA Form 089–0–24, Request for Fire Management Sub-grant; FEMA Form 078–0–2, Principal Advisor's Report.

Abstract: The information collection is required to make grant eligibility determinations for the Fire Management Assistance Grant Program (FMAGP). These eligibility-based grants and subgrants provide assistance to any eligible State, Indian tribal government, or local government for the mitigation, management, and control of a fire on public or private forest land or grassland that is threatening such destruction as would constitute a major disaster. The data/information gathered in the forms is used to determine the severity of the threatening fire, current and forecast weather conditions, and associated factors related to the fire and its potential threat as a major disaster.

Affected Public: State, local, or Tribal Government.

Estimated Number of Respondents: 178.

Estimated Number of Responses: 553.

Estimated Total Annual Burden Hours: 811.

Estimated Total Annual Respondent Cost: The estimated annual cost to respondents for the hour burden is $56,281.

Estimated Respondents' Operation and Maintenance Costs: There are no annual costs to respondents operations and maintenance costs for technical services.

Estimated Respondents' Capital and Start-Up Costs: There is no annual start-up or capital costs.

Estimated Total Annual Cost to the Federal Government: The cost to the Federal Government is $612,370.

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: February 1, 2018.

William Holzerland,

Director, Information Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–02487 Filed 2–7–18; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0027]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Interagency Record of Request—A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G, or NATO Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until April 9, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0027 in the body of the letter, the agency name and Docket ID USCIS–2007–0041. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0041;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0041 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Interagency Record of Request—A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G or NATO Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–566; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The data on this form is used by Department of State (DOS) to certify to USCIS eligibility of dependents of A or G principals requesting employment authorization, as well as for NATO/Headquarters, Supreme Allied Commander Transformation (NATO/HQ SACT) to certify to USCIS similar eligibility for dependents of NATO principals. DOS also uses this form to certify to USCIS that certain A, G or NATO nonimmigrants may change their status to another nonimmigrant status. USCIS, on the other hand, uses data on this form in the adjudication of change or adjustment of status applications from aliens in A, G, or NATO classifications and following any such adjudication informs DOS of the results by use of this form.

The information provided on this form continues to ensure effective interagency communication among the three governmental departments—the Department of Homeland Security (DHS), DOS, and the Department of Defense (DOD)—as well as with NATO/HQ SACT. These departments and organizations utilize this form to facilitate the uniform collection and review of information necessary to determine an alien's eligibility for the requested immigration benefit. This form also ensures that the information collected is communicated among DHS, DOS, DOD, and NATO/HQ SACT regarding each other's findings or actions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–566 is 5,800 and the

estimated hour burden per response is 1.42 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 8,236 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $710,500.

Dated: February 2, 2018.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–02481 Filed 2–7–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0040]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Employment Authorization

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 12, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0040] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on October 13, 2018 at 82 FR 47761, allowing for a 60-day public comment period. USCIS did receive 92 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2005–0035 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–765; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* U.S. Citizenship and Immigration Services (USCIS) uses Form I–765 to collect the information that is necessary to determine if an alien is eligible for an initial EAD, a new replacement EAD, or a subsequent EAD upon the expiration of a previous EAD under the same eligibility category. Aliens in many immigration statuses are required to possess an EAD as evidence of work authorization. To be authorized for employment, an alien must be lawfully admitted for permanent residence or authorized to be so employed by the Immigration and Nationality Act (INA) or under regulations issued by DHS. Pursuant to statutory or regulatory authorization, certain classes of aliens are authorized to be employed in the United States without restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. USCIS may determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States. These classes are listed in 8 CFR 274a.12. USCIS also collects biometric information from certain EAD applicants, from whom USCIS has not previously collected biometrics in connection with an underlying application or petition, to verify the applicant's identity, check or update their background information, and produce the EAD card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–765 is 2,096,000 and the estimated hour burden per response is 4.5 hours; the estimated total number of respondents for the information collection Biometric Processing is 42,387 and the estimated hour burden per response is 1.17 hours; the estimated total number of respondents for the information collection Form I–765WS is 41,912 and the estimated hour burden per response is .50 hours; the estimated total number of respondents

for the information collection Passport-Style Photographs is 2,096,000 and the estimated hour burden per response is .50 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 10,550,549 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $367,581,127.

Dated: February 2, 2018.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–02480 Filed 2–7–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0111]

Agency Information Collection Activities: Areas Designated by Act of Congress

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection for Areas Designated by Act of Congress.

DATES: Interested persons are invited to submit comments on or before April 9, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to: The Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Attn: John Trelease, 1849 C Street NW, Mail Stop 4559, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783.

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 OSMRE; (2) is the estimate of burden accurate; (3) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might the OSMRE 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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title of Collection: 30 CFR part 761—Areas Designated by Act of Congress.

OMB Control Number: 1029–0111.

Abstract: OSMRE and State regulatory authorities use the information collected for 30 CFR 761 to ensure that persons planning to conduct surface coal mining operations on the lands protected by § 522(e) of the Surface Mining Control and Reclamation Act of 1977 have the right to do so under one of the exemptions or waivers provided by this section of the Act.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Applicants for certain surface coal mine permits and State regulatory authorities.

Total Estimated Number of Annual Respondents: 159 coal mining applicants and 24 State regulatory authorities.

Total Estimated Number of Annual Responses: 314.

Estimated Completion Time per Response: Varies from 2 hours to 40 hours, depending upon activity.

Total Estimated Number of Annual Burden Hours: 3,111 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $19,260.

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.

Authority: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–02504 Filed 2–7–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0061]

Agency Information Collection Activities: Permanent Regulatory Program—Small Operator Assistance Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection for the Permanent Regulatory Program—Small Operator Assistance Program (SOAP).

DATES: Interested persons are invited to submit comments on or before April 9, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to: The Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance

Officer, Attn: John Trelease, 1849 C Street NW, Mail Stop 4559, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783.

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 OSMRE; (2) is the estimate of burden accurate; (3) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might the OSMRE 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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title of Collection: 30 CFR part 795—Permanent Regulatory Program—Small Operator Assistance Program.

OMB Control Number: 1029–0061.

Abstract: This information collection requirement is needed to provide assistance to qualified small mine operators under 30 U.S.C. 1257. The information requested will provide the regulatory authority with data to determine the eligibility of the applicant and the capability and expertise of laboratories to perform required tasks.

Form Number: FS–6.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Small operators, laboratories, and State regulatory authorities.

Total Estimated Number of Annual Respondents: 4 (1 small operator, 2 by a State regulatory authority, 1 by a laboratory).

Total Estimated Number of Annual Responses: 4.

Estimated Completion Time per Response: 18 hours for a small operator, 4 hours for State review, 70 hours for State solicitation and award to a laboratory, 1 hour for laboratory to re-qualify.

Total Estimated Number of Annual Burden Hours: 93 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $2,408.

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.

Authority: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–02505 Filed 2–7–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0103]

Agency Information Collection Activities; Certification and Noncoal Reclamation

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection for requirements for certification and noncoal reclamation.

DATES: Interested persons are invited to submit comments on or before April 9, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to: The Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Attn: John Trelease, 1849 C Street NW, Mail Stop 4559, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783.

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 OSMRE; (2) is the estimate of burden accurate; (3) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might the OSMRE 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.

This notice provides the public with 60 days in which to comment on the

following information collection activity:

Title of Collection: 30 CFR part 875—Certification and Noncoal Reclamation.

OMB Control Number: 1029–0103.

Abstract: This Part establishes procedures and requirements for States and Indian tribes to conduct noncoal reclamation under abandoned mine land funding. The information is needed to assure compliance with the Surface Mining Control and Reclamation Act of 1977.

Form Numbers: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and Tribal reclamation authorities.

Total Estimated Number of Annual Respondents: 1.

Total Estimated Number of Annual Responses: 1.

Estimated Completion Time per Response: 84 hours.

Total Estimated Number of Annual Burden Hours: 84.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Annual Non-Wage Cost: $0.

Authority: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–02506 Filed 2–7–18; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–442 and 731–TA–1095–1096 (Second Review)]

Lined Paper School Supplies From China and India; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on lined paper school supplies from India and the antidumping duty orders on lined paper school supplies from China and India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on July 3, 2017 (82 FR 30902) and determined on October 6, 2017 that it would conduct expedited reviews (82 FR 49659, October 26, 2017).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on February 2, 2018. The views of the Commission are contained in USITC Publication 4758 (February 2018), entitled *Lined Paper School Supplies from China and India: Investigation Nos. 701–TA–442 and 731–TA–1095–1096 (Second Review).*

Issued: February 2, 2018.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–02479 Filed 2–7–18; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–008]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 12, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–388, 389, and 391 and 731–TA–817, 818, and 821 (Third Review) (Cut-to-Length Carbon-Quality Steel Plate from India, Indonesia, and Korea). The Commission is currently scheduled to complete and file its determinations and views of the Commission by February 26, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: February 5, 2018.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–02620 Filed 2–6–18; 4:15 pm]

BILLING CODE 7020–02–P

OFFICE OF MANAGEMENT AND BUDGET

Discount Rates for Cost-Effectiveness Analysis of Federal Programs

AGENCY: Office of Management and Budget.

ACTION: Revisions to Appendix C of OMB Circular A–94.

SUMMARY: The Office of Management and Budget revised Circular A–94 in 1992. The revised Circular specified certain discount rates to be updated annually when the interest rate and inflation assumptions used to prepare the Budget of the United States Government were changed. These discount rates are found in Appendix C of the revised Circular. The updated discount rates are shown below. The discount rates in Appendix C are to be used for cost-effectiveness analysis, including lease-purchase analysis, as specified in the revised Circular. They do not apply to regulatory analysis.

DATES: The revised discount rates will be in effect through December 2018.

FOR FURTHER INFORMATION CONTACT: Gideon Lukens, Office of Economic Policy, Office of Management and Budget, (202) 395–3316.

Jeffrey Schlagenhauf,

Associate Director for Economic Policy, Office of Management and Budget.

Attachment

OMB Circular No. A–94

Appendix C

(Revised November 2017)

Discount Rates for Cost-Effectiveness, Lease Purchase, and Related Analyses

Effective Dates. This appendix is updated annually. This version of the appendix is valid for calendar year 2018. A copy of the updated appendix can be obtained in electronic form through the OMB home page at *https://www.whitehouse.gov/wp-content/uploads/2017/1 l/Appendix-C.pdf.* The text of the Circular is found at *btlps://www.whitehouse.gov/sites/whitehouse.gov/files/omb/cirular/A94/a094.pdf* and a table of past years' rates is located at *https://www.whitehouse.gov/wp-content/uploads/2017/1l/DISCHIST-2018-1.pdf.* Updates of the appendix are also available upon request from OMB's Office of Economic Policy (202–395–3316).

*Nominal Discount R*ates. A forecast of nominal or market interest rates for calendar

year 2018 based on the economic assumptions for the 2019 Budget is presented below. These nominal rates are to be used for discounting nominal flows, which are often encountered in lease-purchase analysis.

NOMINAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[In percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
1.0	1.3	1.6	1.8	2.2	2.6

Real Discount Rates. A forecast of real interest rates from which the inflation premium has been removed and based on the economic assumptions from the 2019 Budget is presented below. These real rates are to be used for discounting constant-dollar flows, as is often required in cost effectiveness analysis.

REAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[In percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
−0.8	−0.6	−0.3	−0.1	0.2	0.6

Analyses of programs with terms different from those presented above may use a linear interpolation. For example, a four-year project can be evaluated with a rate equal to the average of the three-year and five-year rates. Programs with durations longer than 30 years may use the 30-year interest rate.

[FR Doc. 2018–02520 Filed 2–7–18; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Thursday, March 8, from 9:00 a.m.–5:00 p.m., Eastern Time, in Washington, DC.

PLACE: This meeting will occur in Washington, DC, at the Access Board Conference Room, 1331 F Street NW, Suite 800, Washington, DC 20004. Interested parties may join the meeting in person at the meeting location or may join by phone in a listening-only capacity (other than the period allotted for public comment noted below) using the following call-in information: Teleconference number: 1–888–599–8667; Conference ID: 9890793; Conference Title: NCD Meeting; Host Name: Clyde Terry.

MATTERS TO BE CONSIDERED: The Council will receive agency updates on policy projects, finance, governance, and other business. The Council will receive an update on the work done to date for its 2018 Progress Report to Congress and the President, which this year will focus on monitoring and enforcement efforts in three federal agencies. The Council will next release its latest report titled, ''U.S. Foreign Policy and Disability 2017: Progress and Promise'' with a summary of the report followed by a respondent panel. The Council will then revisit its 2017 Progress Report, which explored the intersection of disability and poverty, and receive public comments on which of the report's recommendations are of greatest importance for NCD's immediate follow-up activities. Following the public comment, the Council will discuss future 2018 policy activity building off of the 2017 Progress Report. The Council will conclude its meeting with a policy panel including representatives from the U.S. Department of Justice (invited), who have been asked to speak about recent ADA regulation rescissions as well as their work in the area of service animals.

AGENDA: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Eastern):

Thursday, March 8

9:00–9:30 a.m.—Welcome and introductions
9:30–10:15 a.m.—2018 Progress Report update and discussion
10:15–10:30 a.m.—Break
10:30–11:30 a.m.—Foreign policy report release and respondent panel
11:30 a.m.–12:00 p.m.—NCD business meeting
12:00–12:15 p.m.—Training on Council Member time reports
12:15–1:45 p.m.—LUNCH BREAK
1:45–2:00 p.m.—Recap of 2017 Progress Report (intersection of poverty and disability)
2:00–2:30 p.m.—Public comments (focused on recommendations of the 2017 NCD Progress Report on poverty)
2:30–2:45 p.m.—BREAK
2:45–3:45 p.m.—Policy recommendations for FY 2018 building off 2017 Progress Report
3:45–5:00 p.m.—Panel of Department of Justice representatives regarding rescinded ADA regulations and agency activities regarding service animals (invited)
5:00 p.m.—Adjourn

PUBLIC COMMENT: To better facilitate NCD's public comment, any individual interested in providing public comment is asked to register his or her intent to provide comment in advance by sending an email to *PublicComment@ncd.gov* with the subject line ''Public Comment'' with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. All emails to register for public comment at the quarterly meeting must be received by Wednesday, March 7, 2018. Priority will be given to those individuals who are in-person to provide their comments during the public comment period. Those commenters on the phone will be called on per the list of those registered via email. Due to time constraints, NCD asks all commenters to limit their comments to three minutes. Comments received at the March quarterly meeting will be limited to those regarding the public's input on which of the 2017 NCD Progress Report's recommendations are of greatest importance for NCD's immediate follow-up activities in 2018.

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

ACCOMMODATIONS: A CART streamtext link has been arranged for this meeting. The web link to access CART on Thursday, March 8, 2018 is: *http://www.streamtext.net/player?event=NCD-QUARTERLY.*

Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements. To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person refrain from wearing scented personal care products such as perfumes, hairsprays, and deodorants.

Dated: February 6, 2018.

Deb Cotter,

Executive Director.

[FR Doc. 2018–02597 Filed 2–6–18; 11:15 am]

BILLING CODE 8421–03–P

NATIONAL SCIENCE FOUNDATION

Notice of Availability and Notice of Public Meeting for the Draft Environmental Impact Statement (DEIS) for the Sacramento Peak Observatory, Sunspot, New Mexico

AGENCY: National Science Foundation.

ACTION: Notice of availability and notice of public meeting.

SUMMARY: The National Science Foundation (NSF) has made available for public review and comment the Draft Environmental Impact Statement (DEIS) for Sacramento Peak Observatory. This DEIS has been prepared for the NSF to evaluate the potential environmental effects of proposed operational changes due to funding constraints for the Sacramento Peak Observatory in Sunspot, New Mexico. The DEIS was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969. Consultation under Section 106 of the National Historic Preservation Act (NHPA) is being conducted concurrent with the NEPA process.

DATES: NSF will accept comments on the DEIS for 45 days following publication of this Notice of Availability. Comments may be submitted verbally during the public meeting scheduled for February 28, 2018 (see details in **SUPPLEMENTARY INFORMATION**) or in writing. Substantive comments will be considered in a Final Environmental Impact Statement (FEIS).

ADDRESSES: You may submit written comments by either of the following methods:

Email to: envcomp-AST-sacpeak@nsf.gov, with subject line ''Sacramento Peak Observatory.''

Mail to: Elizabeth Pentecost, RE: Sacramento Peak Observatory, National Science Foundation, 2415 Eisenhower Avenue, Suite W9152, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: For further information regarding the EIS process or Section 106 consultation, contact: Elizabeth Pentecost, National Science Foundation, Division of Astronomical Sciences, 2415 Eisenhower Avenue, Suite W9152, Alexandria, VA 22314; Telephone: (703) 292–4907; email: *epenteco@nsf.gov.*

DEIS Information: The DEIS, as well as information about the public meeting, is posted at: *www.nsf.gov/AST.* A copy of the DEIS will be available for review at the following libraries: Michael Nivison Public Library, 90 Swallow Place, Cloudcroft, NM 88317, Alamogordo Public Library, 920 Oregon Avenue, Alamogordo, NM 88310.

SUPPLEMENTARY INFORMATION: Sacramento Peak Observatory is located in Sunspot, New Mexico, within the Lincoln National Forest in the Sacramento Mountains. Established by the U.S. Air Force via a memorandum of agreement with the U.S. Forest Service in 1950, the facility was transferred to NSF in 1976. NSF and the U.S. Forest Service executed a land use agreement (signed in 1980) to formalize this transition and the continued use of the land for the observatory. The primary research facility in operation at the Sacramento Peak site is the Richard B. Dunn Solar Telescope (DST), currently managed by the National Solar Observatory (NSO). The DST is a high-spatial resolution optical/infrared solar telescope. In addition to its own operations, the Sacramento Peak Observatory supplies water for the nearby Apache Point Observatory (APO).

The NSF Directorate for Mathematical and Physical Sciences, Division of Astronomical Sciences, through a series of academic community-based reviews, has identified the need to divest several facilities from its portfolio in order to deliver the best performance on the emerging and key science technologies of the present decade and beyond. In 2012, NSF's Division of Astronomical Sciences (AST's) portfolio review committee, under the category of solar facilities stated that, ''AST and NSO should plan for the continued use of the Dunn Solar Telescope (DST) as a world-class scientific observatory, supporting the solar physics community, to within two years of ATST [now the Daniel K. Inouye Solar Telescope, DKIST] first light.'' DKIST is being constructed in Hawai'i and is expected to begin operations in 2020. In 2016, in response to this recommendation, NSF completed a feasibility study to inform and define options for the site's future disposition that would involve significantly decreasing or eliminating NSF funding of the Sacramento Peak Observatory. NSF issued a Notice of Intent to prepare an EIS on July 5, 2016, held scoping meetings on July 21, 2016, and held a 30-day public comment period that closed on August 5, 2016.

Alternatives to be evaluated in the EIS which may be refined through public input, with preliminary proposed alternatives that include the following:

- Continued science- and education-focused operations by interested parties with reduced NSF-funding.
- Transition to partial operations by interested parties with reduced NSF funding.
- Mothballing of facilities (suspension of operations in a manner such that operations could resume efficiently at some future date).
- Demolition and site restoration.
- No-Action Alternative: continued NSF investment for science-focused operations.

No final decisions will be made regarding the proposed changes to operations at Sacramento Peak Observatory prior to issuance of a Final Environmental Impact Statement, and, subsequently, a Record of Decision for the Proposed Action.

Public Meeting: A public meeting to address the DEIS will take place in Alamogordo, New Mexico with notification of the time and location published in the local newspapers, as follows:

- Public Meeting: February 28, 2018, at 6:30 p.m. to 8:30 p.m., New Mexico Museum of Space History, 3198 State Route 2001, Alamogordo, New Mexico 88310, Telephone: (575) 437–2840.

The meeting will be transcribed by a court reporter. Please contact NSF at least one week in advance of the meeting if you would like to request special accommodations (*i.e.,* sign language interpretation, etc.)

Dated: February 2, 2018.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2018–02488 Filed 2–7–18; 8:45 am]

BILLING CODE 7555–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Survey of Nonparticipating Single Premium Group Annuity Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that OMB extend approval (with changes), under the Paperwork Reduction Act, of a quarterly survey of insurance company rates for pricing annuity contracts (OMB control number 1212–0030; expires May 31, 2018). The American Council of Life Insurers conducts this voluntary survey for PBGC. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by April 9, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the website instructions for submitting comments.

Email: paperwork.comments@pbgc.gov.

Mail or Hand Delivery: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026. PBGC will make all comments available on its website at *http://www.pbgc.gov.*

Copies of the collection of information may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting that office or calling 202–326–4040 during normal business hours. (TTY/ASCII users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The regulations and forms and instructions relating to this collection of information are available on PBGC's website at *www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Jo Amato Burns (*burns.jo.amato@pbgc.gov*), Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–326–4400, extension 3072, or Stephanie Cibinic (*cibinc.stephanie@pbgc.gov*), Deputy Assistant General Counsel, same address and phone number, extension 6352. TTY/ASCII users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400.

SUPPLEMENTARY INFORMATION: PBGC's regulations prescribe actuarial valuation methods and assumptions (including interest rate assumptions) to be used in determining the actuarial present value of benefits under single-employer plans that terminate (29 CFR part 4044) and under multiemployer plans that undergo a mass withdrawal of contributing employers (29 CFR part 4281). Each month PBGC publishes the interest rates to be used under those regulations for plans terminating or undergoing mass withdrawal during the next month.

The interest rates are intended to reflect current conditions in the annuity markets. To determine these interest rates, PBGC gathers pricing data from insurance companies that are providing annuity contracts to terminating pension plans through a quarterly ''Survey of Nonparticipating Single Premium Group Annuity Rates.'' The American Council of Life Insurers (ACLI) distributes the survey and provides PBGC with ''blind'' data (*i.e.,* PBGC is unable to match responses with the insurance companies that submitted them). PBGC also uses the information from the survey in determining the interest rates it uses to value benefits payable to participants and beneficiaries in PBGC-trusteed plans for purposes of PBGC's financial statements.

PBGC is proposing several changes to the survey distributed by ACLI:

- Reduction in the number of ages for which PBGC requests net rate plan factors for immediate and deferred annuities, and removal of columns asking for Deferred to Exact Age 60 net rate plan factors. These changes are proposed because the net rate plan factors for the annuitant ages removed are no longer used when deriving interest factors. The proposed changes will simplify the completion of the survey.
- Increases in the dollar ranges of the Settlement Categories in Parts III and IV to better capture variability and range of business accepted by respondents. Dollar amounts previously used were too low to differentiate among insurance companies that responded to the survey.
- Addition of a question asking whether the respondent participated in the survey in the previous year to enable PBGC to determine the extent to which the survey respondents vary over time.
- Addition of a question asking whether the current value of the respondent's annuity portfolio is greater than $5 billion. This proposed addition will permit PBGC to determine if the insurers who respond to the survey represent a sizable portion of the total annuity market.

This voluntary survey is directed at insurance companies most, if not all, of which are members of ACLI. The survey is conducted quarterly and will be sent to approximately 22 insurance companies. PBGC estimates that about six insurance companies will respond to the survey each quarter, and that each survey will require approximately 30 minutes to complete and return. The total burden is estimated to be 12 hours (30 minutes per survey × four per year × six respondents).

OMB has approved this collection of information under control number 1212–0030 through May 31, 2018. PBGC intends to request that OMB extend its approval for another three years. 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.

PBGC is soliciting public comments to—

- 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;
- evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–02502 Filed 2–7–18; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2014–4; MC2018–121 and CP2018–164; MC2018–122 and CP2018–165]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 12, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2014–4; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Parcel Return Service Contract 5; *Filing Acceptance Date:* February 1, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* February 12, 2018.

2. *Docket No(s).:* MC2018–121 and CP2018–164; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 74 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* February 2, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* February 12, 2018.

3. *Docket No(s).:* MC2018–122 and CP2018–165; *Filing Title:* USPS Request to Add Parcel Select Contract 30 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* February 2, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* February 12, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–02545 Filed 2–7–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82627; File No. SR–NYSE–2017–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3, To Amend Section 102.01B of the NYSE Listed Company Manual To Provide for the Listing of Companies That List Without a Prior Exchange Act Registration and That Are Not Listing in Connection With an Underwritten Initial Public Offering and Related Changes to Rules 15, 104, and 123D

February 2, 2018.

I. Introduction

On June 13, 2017, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Section 102.01B of the NYSE Listed Company Manual to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration in connection with an underwritten initial public offering and amend Exchange rules to address the opening procedures on the first day of trading of such securities. The proposal, as modified by Amendment No. 3, would: (i) Eliminate the requirement in Footnote (E) of Section 102.01B (''Footnote (E)'') of the Manual to have a private placement market trading price if there is a valuation from an independent third-party of $250 million in market value of publicly-held shares; (ii) set forth several factors indicating when the independent third party providing the valuation would not be deemed ''independent'' under Footnote (E); (iii) amend NYSE Rule 15 to add a reference price for when a security is listed under Footnote (E); (iv) amend NYSE Rule 104 to specify Designated Market Maker (''DMM'') requirements when facilitating the opening of a security listed under Footnote (E) when there has been no sustained history of trading in a private placement trading market for such security; and (v) amend NYSE Rule 123D to specify that the Exchange may declare a regulatory halt prior to

[1] 15 U.S.C. 78s(b)(1).
[2] 15 U.S.C. 78a.
[3] 17 CFR 240.19b–4.

opening a security that is the subject of an initial pricing upon Exchange listing and that has not, immediately prior to such initial pricing, traded on another national securities exchange or in the over-the-counter market.

The proposed rule change was published for comment in the **Federal Register** on June 20, 2017.[4] The Commission received one comment in response to the Original Notice.[5] The Exchange filed Amendment No. 1 to the proposed rule change on July 28, 2017, which, as noted below, was later withdrawn. On August 3, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to September 18, 2017.[6]

On August 16, 2017, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety.[7] The Commission published Amendment No. 2 for comment in the **Federal Register** on August 24, 2017.[8] The Commission received no comments in response to this solicitation for comments. On September 15, 2017, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.[9] Following the Order Instituting Proceedings, the Commission received one additional comment letter.[10] On December 8, 2017, the Exchange filed Amendment No. 3 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety.[11] On December 14, 2017, the Commission extended the time period for approving or disapproving the proposal for an additional 60 days until February 15, 2018.[12] The Commission is publishing this notice to solicit comment on Amendment No. 3 to the proposed rule change from interested persons, and is approving the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 3

1. Listing Standards

Generally, Section 102 of the Manual sets forth the minimum numerical standards for domestic companies, or foreign private issuers that choose to follow the domestic standards, to list equity securities on the Exchange. Section 102.01B of the Manual requires a listed company to demonstrate at the time of listing an aggregate market value of publicly-held shares of either $40 million or $100 million, depending on the type of listing.[13] Section 102.01B also states that, in these cases, the Exchange relies on written representations from the underwriter, investment banker, or other financial advisor, as applicable, with respect to this valuation.[14] While Footnote (E) states that the Exchange generally expects to list companies in connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off, Section 102.01B of the Manual also contemplates that companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement[15] filed solely for the purpose of allowing existing shareholders to sell their shares.[16] Specifically, Footnote (E) permits the Exchange, on a case by case basis, to exercise discretion to list such companies and provides that the Exchange will determine that such a company has met the $100 million aggregate market value of publicly-held shares requirement based on a combination of both (i) an independent third-party valuation (a ''Valuation'')[17] of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a ''Private Placement Market'').[18] Under the current rules, the Exchange will attribute a market value of publicly-held shares to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market.[19]

The Exchange proposed two changes to Footnote (E). First, the Exchange proposed to amend Footnote (E) to provide that, in the absence of any recent trading in a Private Placement Market, the Exchange will determine that a company has met its market value of publicly-held shares requirement if the company provides a recent Valuation evidencing a market value of

[4] *See* Securities Exchange Act Release No. 80933 (June 15, 2017), 82 FR 28200 (June 20, 2017) (''Original Notice'').

[5] *See* letter to the Commission from James J. Angel, Ph.D., CFA, Georgetown University, dated July 28, 2017 (''Angel Letter'').

[6] *See* Securities Exchange Act Release No. 81309 (August 3, 2017), 82 FR 37244 (August 9, 2017).

[7] *See* Notice, *infra* note 8, at n. 8, which describe the changes proposed in Amendment No. 2 from the original proposal.

[8] *See* Securities Exchange Act Release No. 81440 (August 18, 2017), 82 FR 40183 (August 24, 2017) (''Notice'').

[9] *See* Securities Exchange Act Release No. 81640 (September 15, 2017), 82 FR 44229 (September 21, 2017) (''Order Instituting Proceedings'').

[10] *See* letter to Brent J. Fields, Commission, from Cleary Gottlieb Steen & Hamilton LLP, dated October 12, 2017 (''Cleary Gottlieb Letter'').

[11] Amendment No. 3 revised the proposal to eliminate the proposed changes to Footnote (E) that would have allowed a company to list immediately upon effectiveness of an Exchange Act registration statement only, without any concurrent IPO or Securities Act of 1933 (''Securities Act'') registration. Except for removing this part of the proposal, the remaining proposed amendments in Amendment No. 3 are identical to those noticed for comment in Amendment No. 2. Amendment No. 3 also contained a complete restated Form 19b–4 under the Exchange Act, which contained the same discussions, statutory basis and other sections set forth in Amendment No. 2, with slight modifications to take into account the deleted provision. Amendment No. 3 is available at: *https://www.sec.gov/comments/sr-nyse-2017-30/nyse201730-2782322-161654.pdf.*

[12] *See* Securities Exchange Act Release No. 82332 (December 14, 2017), 82 FR 60442 (December 20, 2017).

[13] Section 102.01B of the Manual states that a company must demonstrate ''an aggregate market value of publicly-held shares of $40,000,000 for companies that list either at the time of their initial public offerings (''IPO'') (C) or as a result of spin-offs or under the Affiliated Company standard or, for companies that list at the time of their Initial Firm Commitment Underwritten Public Offering (C), and $100,000,000 for other companies (D)(E).'' Section 102.01B also requires a company to have a closing price, or if listing in connection with an IPO or Initial Firm Commitment Underwritten Public Offering, an IPO or Initial Firm Commitment Underwritten Public Offering price per share of at least $4.00 at the time of initial listing.

[14] *See* Section 102.01B, Footnote (C) of the Manual, which states that for companies listing at the time of their IPO or Initial Firm Commitment Underwritten Public Offering, the Exchange will rely on a written commitment from the underwriter to represent the anticipated value of the company's offering. For spin-offs, the Exchange will rely on a representation from the parent company's investment banker (or other financial advisor) in order to estimate the market value based upon the distribution ratio.

[15] The reference to a registration statement refers to a registration statement effective under the Securities Act.

[16] *See* Section 102.01B, Footnote (E) of the Manual.

[17] *See* Section 102.01B, Footnote (E) of the Manual, which sets forth specific requirements for the Valuation. Among other factors, any Valuation used for purposes of Footnote (E) must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations.

[18] Section 102.01B, Footnote (E) of the Manual also sets forth specific factors for relying on a Private Placement Market price, and states that the Exchange will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on such market if it is ''consistent with a sustained history [of trading] over that several month period.''

[19] *See* Section 102.01B, Footnote (E) of the Manual.

publicly-held shares of at least $250 million.[20] In proposing this change, the Exchange expressed the view that the current requirement of Footnote (E) to rely on recent Private Placement Market trading in addition to a Valuation may cause difficulties for certain companies that are otherwise clearly qualified for listing.[21] The Exchange stated that some companies that are clearly large enough to be suitable for listing on the Exchange do not have their securities traded at all on a Private Placement Market prior to going public and, in other cases, the Private Placement Market trading is too limited to provide a reasonable basis for reaching conclusions about a company's qualification.[22] In proposing to adopt a Valuation that must be at least two-and-a-half times the $100 million requirement of Section 102.01B of the Manual, the Exchange stated that this amount ''will give a significant degree of comfort that the market value of the company's shares will meet the [$100 million] standard upon commencement of trading on the Exchange,'' particularly because any such Valuation ''must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations.'' [23]

Second, the Exchange proposed to further amend Footnote (E) by establishing certain criteria that would preclude a valuation agent from being considered ''independent'' for purposes of Footnote (E), which the Exchange believes will provide a significant additional guarantee of the independence of any entity providing such a Valuation.[24] Specifically, the Exchange proposed that a valuation agent will not be deemed to be independent if:

- At the time it provides such Valuation, the valuation agent or any affiliated person or persons beneficially own in the aggregate as of the date of the Valuation, more than 5% of the class of securities to be listed, including any right to receive any such securities exercisable within 60 days;
- The valuation agent or any affiliated entity has provided any investment banking services to the listing applicant within the 12 months preceding the date of the Valuation; [25] or
- The valuation agent or any affiliated entity has been engaged to provide investment banking services to the listing applicant in connection with the proposed listing or any related financings or other related transactions.[26]

2. Trading Rules

The Exchange also proposed to amend Exchange Rules 15, 104 and 123D, governing the opening of trading, to specify procedures for the opening trade on the day of initial listing of a company that lists under the proposed amendments to Footnote (E) and did not have any recent trading in a Private Placement Market.[27]

Rule 15(b) provides that a DMM will publish a pre-opening indication [28] before a security opens if the opening transaction on the Exchange is anticipated to be at a price that represents a change of more than the ''Applicable Price Range,'' [29] from a specified ''Reference Price.'' [30] Rule 15(c)(1) specifies that the Reference Price for a security (other than an American Depository Receipt) would be either (A) the security's last reported sale price on the Exchange; (B) the security's offering price in the case of an IPO; or (C) the security's last reported sale price on the securities market from which the security is being transferred to the Exchange.[31]

The Exchange proposed to amend Rule 15(c)(1) to add new sub-paragraph (D) to specify the Reference Price for a security that is listed under Footnote (E). The Exchange proposed that if such security has had recent sustained trading in a Private Placement Market prior to listing, the Reference Price in such scenario would be the most recent transaction price in that market or, if no such sustained trading has occurred, the Reference Price used would be a price determined by the Exchange in consultation with a financial advisor to the issuer of such security.[32]

Rule 104(a)(2) provides that the DMM has a responsibility for facilitating openings and reopenings for each of the securities in which the DMM is registered as required under Exchange rules, which includes supplying liquidity as needed. The Exchange proposed to amend Rule 104(a)(2) to require the DMM to consult with the issuer's financial advisor when facilitating the opening on the first day of trading of a security that is listing under Footnote (E) and that has not had recent sustained history of trading in a Private Placement Market prior to listing, in order to effect a fair and orderly opening of such security.[33]

The Exchange stated that it believes that such a financial advisor would have an understanding of the status of ownership of outstanding shares in the company and would have been working with the issuer to identify a market for the securities upon listing.[34] As a result, it believes such financial advisor would be able to provide input to the DMM regarding expectations of where such a new listing should be priced, based on pre-listing selling and buying interest and other factors that would not be available to the DMM through other sources.[35]

[20] *See* proposed Section 102.01B, Footnote (E) of the Manual. The Commission notes that the Exhibit 5 to Amendment No. 3 contains the proposed rule language. Any references herein to the proposed rule language shall refer to the language available in Exhibit 5 to Amendment No. 3, which is available from the Exchange or on the Commission's website *www.sec.gov. See also* Notice, *supra* note 8.

[21] *See* Notice, *supra* note 8, at 40184.

[22] *See id.*

[23] *Id.* In its proposal, the Exchange stated that it believed that it is unlikely that any Valuation would reach a conclusion that was incorrect to the degree necessary for a company using this provision to fail to meet the $100 million requirement upon listing, in particular because any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. *See id.*

[24] *See id.*

[25] For purposes of this provision, ''investment banking services'' includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transactions), or similar investments; serving as placement agent for the issuer; or acting as a member of a selling group in a securities underwriting. *See* proposed Section 102.01B, Footnote (E) of the Manual.

[26] *See id.*

[27] *See* Notice, *supra* note 8, at 41085.

[28] Rule 15(a) states that a pre-opening indication will include the security and the price range within which the opening price is anticipated to occur. Pre-opening indications are published on the Exchange's proprietary data feeds and the securities information processor (''SIP''). *See* Rule 15(a). The Exchange may also publish order imbalance information prior to the opening of a security. The order imbalance information contains the price at which opening interest may be executed in full. *See* Rule 15(g).

[29] *See* Rule 15(d) for a definition of ''Applicable Price Range.''

[30] Rule 15(b) also provides that a DMM will publish a pre-opening indication if a security has not opened by 10:00 a.m. Eastern Time. *See* Rule 15(c) for a definition of ''Reference Price.''

[31] *See* Rule 15(c)(1).

[32] *See* proposed Rule 15(c)(1)(D).

[33] *See* proposed Rule 104(a)(2). The Exchange stated that this requirement is based in part on Nasdaq Rule 4120(c)(9), which requires that a new listing on Nasdaq that is not an IPO have a financial advisor willing to perform the functions performed by an underwriter in connection with pricing an IPO on Nasdaq. *See* Notice, *supra* note 8, at 40185.

[34] *See* Notice, *supra* note 8, at 40185.

[35] *See id.* The Exchange noted that despite the proposed obligation to consult with the financial advisor, the DMM would remain responsible for facilitating the opening of trading of such security, and the opening of such security must take into consideration the buy and sell orders available on the Exchange's book. *See id.* Accordingly, the Exchange stated that just as a DMM is not bound by an offering price in an IPO, and will open such a security at a price dictated by the buying and selling interest entered on the Exchange in that security, a DMM would not be bound by the input

In its proposal, the Exchange stated that the proposed amendments to both Rule 15 and Rule 104 are designed to provide DMMs with information to assist them in meeting their obligations to open a new listing under the proposed amended text of Footnote (E).[36]

The Exchange further proposed to amend its rules to provide authority to declare a regulatory halt for a non-IPO new listing. As proposed, Rule 123D(d) would provide that the Exchange may declare a regulatory halt in a security that is the subject of an initial pricing on the Exchange and that has not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing.[37] In addition, proposed Rule 123D(d) would provide that this regulatory halt would be terminated when the DMM opens the security.[38] The Exchange stated its belief that it would be consistent with the protection of investors and the public interest for the Exchange, as a primary listing exchange, to have the authority to declare a regulatory halt for a security that is the subject of a non-IPO listing because it would ensure that a new listing that is not the subject of an IPO could not be traded before the security opens on the Exchange.[39]

III. Summary of Comments

The Commission received two comments on the proposed rule change.[40] Both commenters supported the proposal.

One commenter urged the Commission to approve the proposal promptly and without further delay.[41] This commenter stated the belief that there is no public interest served in excluding the listing of a large company with many investors that does not need to raise additional capital through an IPO.[42] The commenter further stated that in determining whether a company is large enough to meet the listing standards, if a company were to trade at a market capitalization far below the thresholds, the harm would be to the Exchange's reputation, not to the investing public.[43] The commenter further discussed concerns about how NYSE will open the market for a security under the proposal when there is no reliable previous price or offering price.[44] The commenter stated that if NYSE gets the ''offering price 'wrong,' the secondary market trading will quickly find the market price at which supply equals demand within a few minutes if not a few seconds.'' [45]

The other commenter also supported the proposal.[46] The commenter stated that, in terms of the lack of an offering price or price range for the securities, the factors that typically underpin the price determination in an IPO are all publicly available, such as knowledge of ''comparable public companies and the trading prices of their shares and the corresponding financial metrics of the new issuer.'' [47] The commenter also stated that, in any case, ''the opening price will be quickly adjusted through normal market forces.'' [48] Further, the commenter also did not believe that the lack of information on the number of shares that will likely be made available for sale was an issue because although the ''absence of a certain block of shares offered at the outset necessarily creates greater uncertainty . . . , that concern seems to be reasonably mitigated by the practical reality that an issuer is unlikely to incur the cost—both out of pocket and in management time—of undertaking an exchange listing without having sounded out its shareholders about their general interest in possibly selling shares.'' [49]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[50] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with Section 6(b)(5) of the Exchange Act,[51] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(b)(5) of the Exchange Act [52] also requires that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has consistently recognized the importance of exchange listing standards. Among other things, such listing standards help ensure that exchange listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.[53]

The Exchange has stated that it typically expects a company to list in

he or she receives from the financial advisor. *See id.* at 40185–86.

[36] *See id.* at 40186.

[37] *See* proposed Rule 123D(d). The Exchange proposed to renumber current subsection (d) of Rule 123D as subsection (e). *See* proposed Rule 123D(e).

[38] *See* proposed Rule 123D(d). The Exchange stated that proposed Rule 123D(d) is based in part on (i) Nasdaq Rule 4120(c)(9), which provides that the process for halting and initial pricing of a security that is the subject of an IPO on Nasdaq is also available for the initial pricing of any other security that has not been listed on a national securities exchange or traded in the over-the-counter market immediately prior to the initial public offering, provided that a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed is willing to perform the functions under Nasdaq Rule 4120(c)(7)(B) that are performed by an underwriter with respect to an initial public offering; and (ii) Nasdaq Rule 4120(c)(8)(A), which provides that such halt condition shall be terminated when the security is released for trading on Nasdaq. *See* Notice, *supra* note 8, at 40186.

[39] *See* Notice, *supra* note 8, at 40186.

[40] *See* Angel Letter, *supra* note 5, and Cleary Gottlieb Letter, *supra* note 10.

[41] *See* Angel Letter, *supra* note 5, at 1.

[42] *See id.* at 2.

[43] *See id.* at 3.

[44] *See id.*

[45] *Id.*

[46] *See* Cleary Gottlieb Letter, *supra* note 10, submitted in response to the Order Instituting Proceedings. Several of the comments from this commenter focused on the Exchange's proposal to allow a company to list on the Exchange immediately upon effectiveness of an Exchange Act registration statement without any concurrent Securities Act registration. In Amendment No. 3, the Exchange removed this aspect of its proposal from its proposed rule change. Therefore, those comments that related solely to the deleted portion of the Exchange proposal are not relevant to the amended proposal. *See* Amendment No. 3, *supra* note 11.

[47] Cleary Gottlieb Letter, *supra* note 10, at 3.

[48] *Id.*

[49] *Id.*

[50] 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).

[51] 15 U.S.C. 78f(b)(5).

[52] *Id.*

[53] The Commission has stated in approving exchange listing requirements that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to the financial markets and the investing public. In addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained. *See, e.g.,* Securities Exchange Act Release Nos. 81856 (October 11, 2017), 82 FR 48296, 48298 (October 17, 2017) (SR–NYSE–2017–31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR–NYSE–2017–11). The Commission notes that, in general, adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Exchange Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and protect investors and the public interest.

connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off.[54] The Exchange listing standards currently contain a provision, approved in 2008, that gives the Exchange discretion to list companies upon effectiveness of a registration statement under the Securities Act that is filed solely for the purpose of allowing existing shareholders to resell shares they obtained in earlier private placements if such companies can evidence $100 million of publicly held shares based on the lesser amount from a Valuation provided by an independent third party or the price in a Private Placement Market.[55]

As noted above, the Exchange has proposed to provide an alternative in cases where there is not sufficient Private Placement Market trading to establish a reliable price. The Exchange has also proposed additional standards concerning the independence of the third party agent providing the Valuation.

The Commission believes that the proposed rule change will provide a means for a category of companies with securities that have not previously been traded on a public market and that are listing only upon effectiveness of a selling shareholder registration statement, without a related underwritten offering, and without recent trading in a Private Placement Market, to list on the Exchange. In particular, for such companies that otherwise meet NYSE's listing standards,[56] the proposed rule change will provide that, in the absence of any recent trading in a Private Placement Market, the Exchange will determine that such company has met its market value of publicly-held shares requirement if the company provides a Valuation from an independent third party evidencing a market value of publicly-held shares of at least $250 million. According to the Exchange, ''[a]dopting a requirement that the Valuation must be at least two-and-a-half times the $100 million requirement will give a significant degree of comfort that the market value of the company's shares will meet the standard upon commencement of trading on the Exchange.'' [57] The Commission believes that requiring a company that does not have a recent and sustained history of trading of its securities in a Private Placement Market to provide a Valuation of at least $250 million should provide the Exchange with a reasonable level of assurance that the company's market value supports listing on the Exchange and the maintenance of fair and orderly markets thereby protecting investors and the public interest in accordance with Section 6(b)(5) of the Exchange Act.

Exchange rules also seek to ensure that the Valuation is reliable by requiring it to be provided by an independent third party that has significant experience and demonstrable competence in providing valuations of companies.[58] The proposed rule change establishes additional independence criteria, pursuant to which the valuation agent will not be ''independent'' if the valuation agent, or any affiliated person, owns in the aggregate more than 5% of the securities to be listed,[59] or has provided investment banking services to the company in the 12 months prior to the Valuation or in connection with the listing.[60] The Commission believes that, consistent with Section 6(b)(5) of Exchange Act and the protection of investors, these new independence requirements should help to ensure that the Valuation is reliable.[61]

The Exchange also has proposed to amend certain of its procedures to address how the DMM is to establish the Reference Price in connection with the opening, on the first day of trading, of a security listed under Footnote (E).[62] Specifically, for a security with sustained trading in a Private Placement Market, the Reference Price will be the most recent transaction price in that market; otherwise the Reference Price will be determined by the Exchange in consultation with a financial advisor to the issuer. The DMM will also be required to consult with the financial advisor to the issuer where there is no recent sustained history of trading in order to effect a fair and orderly opening of such security.[63] The Commission believes that the proposed changes should help establish a reliable Reference Price, and provide additional information to the DMM, and thereby facilitate the opening by the DMM, when trading first commences on the Exchange for certain securities not listed in connection with an underwritten IPO, and should help to promote fair and orderly markets. The Commission believes these changes, consistent with Section 6(b)(5) of the Exchange Act, are reasonably designed to protect investors and the public interest and promote just and equitable principles of trade for the opening of securities listed under the new standards.

Finally, the Exchange has proposed that it be permitted to declare a regulatory halt in certain securities that are the subject of an initial pricing on the Exchange, and have not been listed on an exchange or quoted in an over-

[54] *See* Notice, *supra* note 8, at 40183.

[55] According to the Exchange, companies listing their securities upon a selling shareholder registration statement have sold securities in one or more private placements and do not wish to raise cash in an offering at the time of listing, unlike a company listing in conjunction with its IPO. Because the Exchange believed such companies meeting all other listing standards should not be barred from listing, the Exchange proposed Footnote (E) to the listing standards which the Commission approved in 2008. In proposing Footnote (E) in 2008, the Exchange stated that with such companies, there is no public trading market to rely on to evaluate whether the company meets the market value standard as with a company transferring from another market, nor is there a public offering whose price would provide the basis for a letter of the type typically provided by underwriters for companies listing in conjunction with an IPO. *See* Section 102.01B, Footnote (E); Securities Exchange Act Release No. 58550 (September 15, 2008), 73 FR 54442, 54442–43 (September 19, 2008) (SR–NYSE–2008–68) (''NYSE 2008 Order''). *See also* notes 18–19 *supra* and accompanying text, describing the requirements in current rule to be able to rely on a Private Placement Market.

[56] Companies listing upon an effective registration statement would have to meet the distribution requirements set forth in Section 102.01A (*i.e.,* that the company have 400 beneficial holders of round lots of 100 shares and 1,100,000 publicly-held shares), the requirements of Section 102.01B (which includes a $4.00 price requirement at the time of initial listing), and one of the financial standards set forth in Section 102.01C of the Manual (*i.e.,* the Earnings Test or the Global Market Capitalization Test), as well as comply with all other applicable NYSE rules, including the corporate governance requirements.

[57] *See* Notice, *supra* note 8, at 40184. Further, in approving Footnote (E) in 2008, the Commission recognized that ''the most recent trading price in a Private Placement Market may be an imperfect indication as to the value of a security upon listing, in part because the Private Placement Markets generally do not have the depth and liquidity and price discovery mechanisms found on public trading markets.'' NYSE 2008 Order, *supra* note 55, at 54443.

[58] *See* Footnote (E) for additional requirements for the Exchange to be able to rely on the Valuation.

[59] This calculation of ownership will include any right to receive such securities exercisable within 60 days.

[60] *See supra* notes 24–26, and accompanying text.

[61] The Commission also notes that companies listing pursuant to the new proposed provision will be required to meet the distribution requirements of Section 102.01A of the Manual, the requirements of Section 102.01(B) of the Manual, and one of the financial standards in Section 102.01C of the Manual, which are the same requirements that apply to most equity listings on the Exchange. *See* note 56, *supra.*

[62] Under Rule 15 a DMM is required to publish a pre-opening indication before a security opens if the opening transaction on the Exchange is anticipated to be at a price that represents a change of more than the ''Applicable Price Range'' from a specified Reference Price. Under Rule 15, for example, the ''Applicable Price Range'' for determining whether to publish a pre-opening indication is 5% for securities with a Reference Price over $3.00.

[63] In its proposal, the Exchange stated that such ''financial advisor would be able to provide input to the DMM regarding expectations of where such a new listing should be priced, based on pre-listing selling and buying interest and other factors that would not be available to the DMM through other sources.'' *See* Notice, *supra* note 8, at 40185.

the-counter quotation medium immediately prior thereto. Such regulatory halt will be terminated when the DMM opens the security, and is for the limited purpose of precluding other markets from trading a security until the Exchange has completed the initial pricing process. The Commission believes this proposed change also should facilitate the initial opening by the DMM of certain securities not listed in connection with an underwritten IPO, and thereby promote fair and orderly markets and the protection of investors.[64]

For the reasons set forth above, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the Exchange Act.

V. Solicitation of Comments on Amendment No. 3

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 3 is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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 Number SR–NYSE–2017–30, and should be submitted on or before March 1, 2018.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 3, prior to the thirtieth day after the date of publication of the notice of Amendment No. 3 in the **Federal Register**. The Commission notes that the proposed rule change, as modified by Amendment No. 3 remains identical to the version published for notice and comment on August 24, 2017,[65] except for the proposed deletion described above,[66] and that the only comments the Commission received on this proposed rule change were in support of the proposal. The Commission also has found that the proposal, as modified by Amendment No. 3, is consistent with the Exchange Act for the reasons discussed herein. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 3, on an accelerated basis, pursuant to Section 19(b)(2) of the Exchange Act.[67]

VII. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Exchange Act,[68] that the proposed rule change (SR–NYSE–2017–30), as modified by Amendment No. 3 thereto, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[69]

Brent J. Fields,

Secretary.

[FR Doc. 2018–02501 Filed 2–7–18; 8:45 am]

BILLING CODE 8011–01–P

[64] The proposed regulatory halt allows the Exchange to have a similar opening procedure for securities listed pursuant to Footnote (E) as an IPO security under Section 12(f) of the Exchange Act and Rule 12f–2, since such securities raise similar issues in terms of initial pricing on the first day of trading. *See* 15 U.S.C. 78l(f); 17 CFR 240.12f–2. Similar to unlisted trading privilege rules that prevent other exchanges from trading an IPO security until the primary listing market has reported the first opening trade, the regulatory halt will allow the DMM to complete the initial pricing and open the security before other markets can trade.

[65] *See* Notice, *supra* note 8.

[66] *See* note 11, *supra.*

[67] 15 U.S.C. 78s(b)(2).

[68] *Id.*

[69] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82623; File No. SR–IEX–2018–01]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Default Handling of Market Orders Entered With a Time-in-Force of DAY

February 2, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 22, 2018, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to modify the default handling of market orders [6] entered with a time-in-force of DAY.[7] The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act [8] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[9] The text of the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CRF 240.19b–4.

[6] *See* Rule 11.190(a)(2).

[7] *See* Rule 11.190(c)(3).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4.

rule change is available at the Exchange's website at *www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to modify the default handling of market orders entered with a time-in-force of DAY (hereinafter referred to as ''market DAY orders'').

Pursuant to Rule 11.190(a)(2), the Exchange offers Users a market order, which is an order type that allows Users to buy or sell a stated amount of a security that is to be executed at or better than the NBBO at the time the order reaches the Exchange.[10] Specifically, pursuant to Rule 11.190(a)(2), market orders do not trade through Protected Quotations,[11] consistent with Rule 611(a)(1) of Regulation NMS.[12] Moreover, any portion of a market order that is designated as an IEX Only order [13] will be canceled if, upon receipt by the System,[14] it cannot be executed by the Exchange in accordance with the Exchange's order execution rules.[15] Any portion of a market order that is not designated as an IEX Only order (*i.e.,* routable orders as described in IEX Rule 11.230(b)) that cannot be executed in full in accordance with the Exchange's order execution rules when reaching the Exchange will be eligible for routing away pursuant to IEX Rule 11.230(a)(2). A routable market order will trade at increasingly aggressive prices, fully satisfying all Protected Quotations, until the order is fully filled, reaches the LULD Price Band,[16] or reaches the Router Constraint.[17]

Pursuant to Rule 11.190(a)(2)(A), market orders must have a time-in-force of IOC, FOK, or, DAY, depending on the User election.[18] Pursuant to Rule 11.190(a)(2)(E)(iii), market DAY orders, by default, are rejected, unless the User specifically elects to configure one or more of its connectivity ports to accept market DAY orders.[19] Market orders with a time-in-force of IOC and FOK are accepted and eligible to trade during the Regular Market Session only.[20] Market DAY orders are eligible to trade or route during the Regular Market Session and treated by the System as having a time-in-force of IOC. Furthermore, market DAY orders submitted before the open of the Regular Market Session are queued by the System until the Opening Auction (or Halt Auction, as applicable) [21] for IEX-listed securities, or until the Opening Process for non-IEX listed securities pursuant to IEX Rule 11.231, except market DAY orders that are designated to route pursuant to Rule 11.230(c).

Furthermore, pursuant to Rule 11.190(f)(1), market orders, including market DAY orders entered during continuous trading are subject to the IEX Order Collar, which prevents any incoming order or order resting on the Order Book, including those marked ISO, from executing at a price outside the Order Collar price range (*i.e.* prevents buy orders from trading at prices above the collar and prevents sell orders from trading at prices below the collar). The order collar price range is calculated using the numerical guidelines for clearly erroneous executions.

The default treatment for market DAY orders was implemented based on informal discussions with various market participants who indicated that such orders are not typically utilized by market participants during continuous trading because of their aggressive trading characteristics. As a result, the Exchange determined that the default treatment for market DAY orders was appropriate.

On August 4, 2017, the Commission approved a proposed rule change filed by the Exchange to adopt rules governing auctions for IEX-listed securities, including Opening and Closing Auction processes that establish IEX Official Opening and Closing Prices for each trading day, as well as IPO, Halt, and Volatility Auction processes utilized to conduct initial public offerings, and resume trading after a regulatory trading halt or pause in an IEX-listed security (collectively, ''IEX Auctions'').[22]

During the iterative process of designing IEX Auctions, informal discussions with various market participants indicated that notwithstanding the atypical use-case for the entry of market DAY orders during continuous trading, such orders are in fact ordinarily utilized by investors to interact with the auction processes of certain primary listing markets, because market DAY orders retain their aggressive pricing characteristics, which increases the likelihood of execution and adds depth of liquidity in the auction, while remaining constrained to the auction match price, therefore passively benefiting from the price discovery process.[23] Accordingly, as proposed, the Exchange will instead allow all connectivity port sessions across all Members to accept market DAY orders by default.

Accordingly, the Exchange designed the IEX Auction processes to account for market DAY orders by queueing such orders on the Auction Book [24] for participation in an upcoming auction when the order type is not eligible for trading in the current market session (*i.e.,* during the Pre-Market Session for the Opening Auction), or when there is no active continuous trading (*i.e.,* during the Order Acceptance Period [25] before an IPO, Halt, or Volatility Auction), and then immediately canceling any unfilled portion immediately after the auction. This design allows Users to leverage the benefits of interacting with the IEX Auction processes using market DAY orders while mitigating the potentially

[10] A market order is always non displayed, may be a MQTY (as defined in Rule 11.190(b)(11)), may be routable or IEX Only, may not be designated as an ISO (as defined in Rule 11.190(b)(12)), and may not be submitted with a limit price. *See* Rules 11.190(a)(2)(B)–(D), and (F)-(G).

[11] *See* Rule 1.160(bb)

[12] *See* 17 CFR 242.611(a)(1).

[13] *See* Rule 11.190(b)(6).

[14] *See* Rule 1.160(nn).

[15] *See* Rules 11.230 and 11.230(a).

[16] *See* Rule 11.280(e)(5)(A).

[17] *See* Rule 11.190(f)(2).

[18] Market orders with a time-in-force of GTT, GTX, and SYS, are rejected. *See* Rules 11.190(a)(2)(E)(iv)–(vi).

[19] A User can elect for the Exchange to accept market orders with a time-in-force of DAY on the Equities Port Request Form on pages 8–9 of its initial IEX Connectivity Agreement and Forms. A User may also change an existing connectivity port to accept market orders with a time-in-force of DAY by submitting an updated Equities Port Request Form to *marketops@iextrading.com.*

[20] *See* Rule 1.160(gg).

[21] *See* Rule 11.350(c).

[22] *See* Securities Exchange Act Release No. 81316 (August 4, 2017), 82 FR 37474 (August 10, 2017)(SR–IEX–2017–10). *See also* Rules 11.350(a)(12) and (10), respectively.

[23] *See e.g.,* Cboe BZX Exchange, Inc. (''Bats'') Rules 11.9(a)(2) and 11.23(a)(8).

[24] *See* Rule 11.350(a)(1).

[25] *See* Rules 11.1350(a)(29)(A)–(C).

harmful impact of such orders that could manifest during continuous trading. Specifically, pursuant to Rule 11.350(a)(1):

- The Opening and IPO Auction Books include market orders with a time-in-force of DAY entered during the Order Acceptance Period, and in the case of the Opening Auction, before the Opening Auction Lock-In Time; [26]
- The Halt Auction Book includes market orders with a time-in-force of DAY received during the Order Acceptance Period within the Regular Market Session, or queued prior to the Regular Market Session for securities that have not traded during the Regular Market Session on that trading day (*i.e.,* market orders with a time-in-force of DAY entered during the Pre-Market Session for the Opening Auction that are participating in a Halt Auction pursuant to Rule 11.350(c)(2)(D) or (E)(ii)); and
- The Volatility Auction Book includes market orders with a time-in-force of DAY received during the Order Acceptance Period within the Regular Market Session.

However, if a User does not have their connectivity ports properly configured to allow market DAY orders, such auction interest would be rejected by default. While, as noted above, a User can elect for the Exchange to accept market DAY orders by submitting an Equities Port Request Form, the process of making system changes to modify, test, and deploy the configuration adds additional complexity for Members and the Exchange. Therefore, to simplify User interaction with the System and allow Users to efficiently leverage the benefits of interacting with the IEX Auction processes using market DAY orders, the Exchange is proposing to eliminate the default rejection of market DAY orders and the corresponding User elected connectivity port settings for the acceptance of market DAY orders. As proposed, the Exchange will instead allow all connectivity port sessions across all Members to accept market DAY orders by default.

The proposed changes do not amend the behavior of market DAY orders, as described above. Moreover, notwithstanding the potentially aggressive trading characteristics of market orders generally, the Exchange believes that there are sufficient limitations on execution of market orders, as described above, to mitigate against such concerns.

As announced in IEX Trading Alerts #2017–015 and #2017–046, the Exchange intends to become a primary listing exchange and support its first IEX-listed security in 2018.[27] In addition, as part of the listings initiative, the Exchange is providing a series of industry wide weekend tests for the Exchange and its Members to exercise the various technology changes required to support IEX Auctions and listings functionality.[28] Accordingly, the Exchange is proposing to amend the default acceptance of market DAY orders in advance of the industry wide testing period in order to allow Members and other market participants time to develop, test, and deploy any necessary changes to support the handling of market DAY orders for participation in IEX Auctions.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [29] of the Act in general, and furthers the objectives of 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 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 proposed rule change is consistent with the protection of investors and the public interest, because it does not alter the substantive behavior of market DAY orders, but instead simplifies the process of entering market DAY orders for all Members. Specifically, the proposed changes are designed to simplify User interaction with the System and allow Users to efficiently leverage the benefits of interacting with the IEX Auction processes by eliminating the default rejection of market DAY orders and the corresponding User elected connectivity port settings for the acceptance of market DAY orders. The Exchange further believes that since the proposed changes do not amend the behavior of market DAY orders, the proposed rule changes are consistent with the protection of investors and the public interest because the limitations on execution of market orders, as discussed in the purpose section, would continue to mitigate against potential adverse market impact from such orders during continuous trading.

Additionally, IEX notes that no other exchange utilizes default rejection of orders comparable to market DAY order types.[31]

Moreover, the Exchange believes that the proposed rule changes are consistent with the protection of investors and the public interest because the Exchange is proposing to amend the default behavior of market DAY orders during the industry wide testing period for Members and other market participants to test with IEX as a primary listing exchange, and in advance of the first listing transferring to IEX, which will allow Members and other market participants time to develop, test, and deploy any necessary changes to support the handling of market DAY orders for participation in IEX Auctions.[32]

Furthermore, as discussed in the purpose section, the process of making system changes to modify, test, and deploy the port setting configurations on a Member-by-Member basis adds additional technical complexities for Members and the Exchange. Thus, the Exchange believes the proposed rule changes are consistent with the protection of investors and the public interest in that the Exchange is proposing to simplify the process of entering market DAY orders, thereby reducing overall technical complexities within the System that raise risks to Exchange operations, Members, and their investor clients.

Lastly, the Exchange believes that the proposed rule change would not result in unfair discrimination, since the proposed changes amend the default behavior of market DAY orders across all connectivity ports. Thus, all Members will be eligible to enter market DAY orders on a fair and equal basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes do not impact inter-market competition since it is merely designed

[26] *See* Rule 11.350(a)(22).

[27] *See* IEX Trading Alert #2017–015 (Listings Specifications, Testing Opportunities, and Timelines), May 31, 2017. *See also* IEX Trading Alert #2017–046 (IEX Listings Timeline Update), originally published on Monday, October 30, 2017, and re-published on Tuesday, October 31, 2017.

[28] *See, e.g.,* IEX Trading Alert #2017–028 (First Listings Functionality Industry Test on Saturday, August 26), August 17, 2017; IEX Trading Alert #2017–037 (Second Listings Functionality Industry Test on Saturday, September 9), September 7, 2017; IEX Trading Alert #2017–039 (Third Listings Functionality Industry Test on Saturday, September 23), September 18, 2017; IEX Trading Alert #2017–040 (Rescheduled 4th Listing Functionality Industry Test), September 29, 2017; IEX Trading Alert #2017–046 (IEX Listings Timeline Update), originally published on Monday, October 30, 2017, and re-published on Tuesday, October 31, 2017; and IEX Trading Alert #2017–047 (Fourth Listings Functionality Industry Test on Saturday, November 4), October 31, 2017.

[29] 15 U.S.C. 78f.

[30] 15 U.S.C. 78f(b)(5).

[31] *See, e.g.,* Bats Rule 11.9(a)(2).

[32] *See supra* note 28.

to simplify the entry of market DAY orders for all Members, without substantively changing the approved rules governing the behavior of such orders. Moreover, as noted above, no competing exchanges impose a similar requirement.

In addition, the Exchange does not believe that the proposed changes will have any impact on intra-market competition, because as discussed in purpose section, the proposed changes amend the default behavior of market DAY orders across all connectivity ports. Thus, all Members will be eligible to enter market DAY orders on a fair and equal basis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [33] of the Act and Rule 19b–4(f)(6) [34] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [35] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6).

[35] 15 U.S.C. 78s(b)(2)(B).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2018–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2018–01. This file number should be included in 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 Section, 100 F Street NE, Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its internet website at *www.iextrading.com.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2018–01 and should be submitted on or before March 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82631; File No. SR–NSCC–2017–808]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Advance Notice, as Modified by Amendment No. 1, To Enhance the Calculation of the Volatility Component of the Clearing Fund Formula That Utilizes a Parametric Value-at-Risk Model and Eliminate the Market Maker Domination Charge

February 5, 2018.

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 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934, as amended (''Act''),[2] notice is hereby given that on December 28, 2017, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–NSCC–2017–808. On January 10, 2018, NSCC filed Amendment No. 1 to the advance notice.[3] The advance notice, as modified by Amendment No. 1 (hereinafter, the ''Advance Notice'') is described in Items I, II and III below, which Items have been prepared by the clearing agency.[4] The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

The advance notice of NSCC consists of modifications to NSCC's Rules &

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] In Amendment No. 1 to the advance notice, NSCC amended and replaced in its entirety the originally filed confidential Exhibit 3a with a new confidential Exhibit 3a in order to remove references to a practice that is not to be considered as part of this filing.

[4] On December 28, 2017, NSCC filed this Advance Notice as a proposed rule change (SR–NSCC–2017–020) with the Commission pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 240.19b–4. On January 10, 2018, NSCC filed Amendment No. 1 to the proposed rule change to amend and replace in its entirety the originally filed confidential Exhibit 3a with a new confidential Exhibit 3a in order to remove references to a practice that is not to be considered as part of this filing. A copy of the proposed rule change, as modified by Amendment No. 1, is *available at http://www.dtcc.com/legal/sec-rule-filings.*

Procedures (''Rules'')[5] in order to enhance the calculation of the volatility component of the Clearing Fund formula that utilizes a parametric Value-at-Risk (''VaR'') model (''VaR Charge'') by (1) adding an additional calculation utilizing the VaR model that incorporates an evenly-weighted volatility estimation, which would supplement the current calculation that utilizes the VaR model but incorporates an exponentially-weighted moving average (''EWMA'') volatility estimation,[6] where the higher of the two calculations would be the core parametric result (''Core Parametric Estimation''); and (2) introducing two additional formulas to the calculation of the VaR Charge—the Gap Risk Measure and the Portfolio Margin Floor, where the results of these two calculations would be compared to the Core Parametric Estimation and the highest of the three would be a Member's final VaR Charge, as described in greater detail below.

NSCC is also proposing to eliminate the existing Market Maker Domination component (''MMD Charge'') from the Clearing Fund formula, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. 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 and B below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

While NSCC has not solicited or received any written comments relating to this proposal, NSCC has conducted outreach to Members in order to provide them with notice of the proposal. NSCC will notify the Commission of any written comments received by NSCC.

(B) Advance Notice Filed Pursuant to Section 806(e) of the Clearing Supervision Act

Description of Proposed Changes

NSCC is proposing to enhance the calculation of the VaR Charge by introducing an additional estimation of volatility that would be incorporated into the VaR model, and introducing two additional calculations, the Gap Risk Measure and the Portfolio Margin Floor, that NSCC believes would collectively enhance its ability to mitigate market price risk. NSCC currently calculates the VaR Charge by applying a parametric VaR model that incorporates an EWMA volatility estimation. NSCC is proposing to introduce an additional calculation that also applies the parametric VaR model but replaces the EWMA volatility estimation with an evenly-weighted volatility estimation.[7] The result of these two calculations using the parametric VaR model would be compared and the higher of the two would be the Core Parametric Estimation.

NSCC is also proposing to introduce two additional calculations to arrive at a final VaR Charge, the Gap Risk Measure and the Portfolio Margin Floor. NSCC would use the highest result between the Core Parametric Estimation, the Gap Risk Measure, when applicable, and the Portfolio Margin Floor calculations as a Member's final VaR Charge.[8]

Each of the separate calculations would provide NSCC with a measure of the market price risk presented by the Net Unsettled Positions and Net Balance Order Unsettled Positions (for purposes of this filing, referred to collectively herein as ''Net Unsettled Positions'')[9] in a Member's portfolio. Collectively, the proposed enhancements to the calculation of the VaR Charge would permit NSCC to more effectively cover its credit exposures and produce margin levels commensurate with the risks and particular attributes of each Member's portfolio, as described in greater detail below.

NSCC is also proposing to eliminate the existing MMD Charge from the Clearing Fund formula. When the MMD Charge was first introduced, it was developed to only address concentration risks presented by Net Unsettled Positions in certain securities that are traded by firms that are designated Market Makers, as described in greater detail below. Given this limited scope of application of this charge, and because NSCC believes it more effectively addresses the risks this charge was designed to address through other risk management measures, including the proposed Gap Risk Measure calculation of the VaR Charge, NSCC is proposing to eliminate the MMD Charge.

Each of these proposed changes is described in more detail below.

(i) Overview of the Required Deposit and NSCC's Clearing Fund

As part of its market risk management strategy, NSCC manages its credit exposure to Members by determining the appropriate Required Deposits to the Clearing Fund and monitoring its sufficiency, as provided for in the Rules.[10] The Required Deposit serves as each Member's margin. The objective of a Member's Required Deposit is to mitigate potential losses to NSCC associated with liquidation of such Member's portfolio in the event that NSCC ceases to act for such Member (hereinafter referred to as a ''default'').[11] The aggregate of all Members' Required Deposits constitutes the Clearing Fund of NSCC, which it would access should a defaulting Member's own Required Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that Member's portfolio.

Pursuant to NSCC's Rules, each Member's Required Deposit amount consists of a number of applicable components, each of which is calculated to address specific risks faced by NSCC, as identified within Procedure XV of the Rules.[12] The volatility component of each Member's Required Deposit is designed to measure market price volatility and is calculated for Members' Net Unsettled Positions. The volatility component is designed to capture the market price risk associated with each Member's portfolio at a 99th percentile

[5] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[6] As described in greater detail in the filing, an EWMA volatility estimation is an estimation of volatility that gives more weight to most recent market observations, where an evenly-weighted volatility estimation is an estimation of volatility that gives even weight to historic market observations.

[7] *See id.*

[8] NSCC may calculate Members' VaR Charge on an intraday basis for purposes of monitoring the risks presented by Members' activity. These calculations would be also be performed using the proposed enhanced methodology.

[9] ''Net Unsettled Positions'' and ''Net Balance Order Unsettled Positions'' refer to net positions that have not yet passed their settlement date, or did not settle on their settlement date. *See* Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

[10] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters), *supra* note 4. NSCC's market risk management strategy is designed to comply with Rule 17Ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17Ad–22(e)(4).

[11] The Rules set out the circumstances under which NSCC may cease to act for a Member and the types of actions it may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a Member's access to NSCC's services in the event that Member defaults on a financial or other obligation to NSCC. *See* Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 4.

[12] *Supra* note 4.

level of confidence. The VaR Charge is the volatility component applicable to most Net Unsettled Positions,[13] and usually comprises the largest portion of a Member's Required Deposit. Procedure XV of the Rules currently provides that the VaR Charge shall be calculated in accordance with a generally accepted portfolio volatility margin model utilizing assumptions based on reasonable historical data and an appropriate volatility range.[14] As such, NSCC currently calculates a Member's VaR Charge utilizing the VaR model, which incorporates an EWMA volatility estimation.

Currently, Members' Required Deposits may also include an MMD Charge, applicable only to Members that are Market Makers and Members that clear for Market Makers.[15] As described in greater detail below, the MMD Charge is imposed when these Members hold a Net Unsettled Position that is greater than 40 percent of the overall unsettled long position (sum of each clearing broker's net long position) in that security in the Continuous Net Settlement (''CNS'') system.[16]

NSCC employs daily backtesting to determine the adequacy of each Member's Required Deposit. NSCC compares the Required Deposit [17] for each Member with the simulated liquidation gains/losses using the actual positions in the Member's portfolio, and the historical security returns. NSCC investigates the cause(s) of any backtesting deficiencies. As part of this investigation, NSCC pays particular attention to Members with backtesting deficiencies that bring the results for that Member below the 99 percent confidence target (*i.e.,* greater than two backtesting deficiency days in a rolling twelve-month period) to determine if there is an identifiable cause of repeated backtesting deficiencies.

Further, as a part of its model performance review, and consistent with its regulatory requirements, NSCC regularly assesses its risks as they relate to its model assumptions, parameters, and sensitivities, including those of its parametric VaR model, to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market.[18] As part of NSCC's model performance monitoring, NSCC management analyzes and evaluates the continued effectiveness of its parametric VaR model in order to identify any weaknesses, and determine whether, and which, enhancements may be necessary to its formulas, parameters or assumptions to improve margin coverage.

The proposed changes to the calculation of the VaR Charge, described below, are a result of NSCC's regular review of the effectiveness of its margining methodology.

(ii) Enhancements to the VaR Charge

Adding an Evenly-Weighted Volatility Estimation to the VaR Model. To calculate the VaR Charge, NSCC uses a parametric VaR model that currently only incorporates an EWMA volatility estimation. The EWMA volatility estimation is considered front-weighted as it assigns more weight to most recent market observations based on the assumption that the most recent price history would have more relevance to, and therefore is a better measure of, current market price volatility levels. A calculation using this EWMA volatility estimation is responsive to changing market volatility, and, because NSCC's Member-level model backtesting results have generally remained above a 99th percentile level of confidence over a 10-year performance window, NSCC believes this calculation continues to be an effective measurement of price volatility for the majority of Net Unsettled Positions that are subject to the VaR Charge. More specifically, NSCC believes its backtesting results show that this calculation has been proven to be effective for calculating the price volatility of large diversified portfolios, which represent the majority of Net Unsettled Positions that are subject to the VaR Charge.

However, NSCC believes this calculation may not adequately cover a rapid change in market price volatility levels, including, for example, a drop in portfolio volatility in a stabilizing market. Additionally, NSCC has observed poorer backtesting coverage for those Members with less diversified portfolios in atypical market conditions.

In estimating volatility, the EWMA volatility estimation gives greater weight to more recent market observations, and effectively diminishes the value of older market observations. However, volatility in equity markets often rapidly revert to pre-volatile levels, and then are followed by a subsequent spike in volatility. So, while a calculation that relies exclusively on the EWMA volatility estimation can capture changes in volatility that emerge from a progressively calm or non-volatile market, it may cause a reactive decrease in margin that does not adequately capture the risks related to a rapid shift in market price volatility levels. Alternatively, an evenly-weighted volatility estimation would continue to give even weight to all historical volatility observations in the look-back period (described below), and would prevent margin from decreasing too quickly.

Therefore, in order to more adequately cover a rapid change in market price volatility levels and the risks presented by less diversified portfolios in its calculation of the VaR Charge, NSCC is proposing to add another calculation of the VaR Charge utilizing its parametric VaR model that would incorporate an evenly-weighted volatility estimation. NSCC believes an additional calculation using a volatility estimation that gives even weight to market observations over a set look-back period would allow it to more adequately address risks related to a rapid shift in general market price volatility levels, which can occur as a result of either idiosyncratic, issuer events (also referred to as ''gap risk events''),[19] or are due to specific characteristics of a Member's portfolio based on their size, balance, direction, concentration, or the degree of correlation with broad market returns.

The proposed calculation incorporating an evenly-weighted volatility estimation would give equal weight to price observations over a look-back period of at least 253 days. NSCC analyzed the impact of using a look-back period of various lengths and determined that a look-back period of at least 253 days would provide NSCC with an adequate view of recent, past market observations in estimating volatility to meet its backtesting performance targets, and wouldn't result in unnecessarily high margin calculations. NSCC would weigh these considerations periodically to determine

[13] As described in Procedure XV, Section I(A)(1)(a)(ii) and (iii) and Section I(A)(2)(a)(ii) and (iii) of the Rules, Net Unsettled Positions in certain securities are excluded from the VaR Charge and instead charged a volatility component that is calculated by multiplying the absolute value of those Net Unsettled Positions by a percentage. *Supra* note 4.

[14] Procedure XV, Section I(A)(1)(a)(i) and Section I(A)(2)(a)(i) of the Rules, *supra* note 4.

[15] As used herein, ''Market Maker'' means a member firm of the Financial Industry Regulatory Authority, Inc. (''FINRA'') that is registered by FINRA as a Market Maker pursuant to FINRA's rules, *available at http://finra.complinet.com/en/display/display.html.*

[16] *See* Rule 11 (CNS System) and Procedure VII (CNS Accounting Operation), *supra* note 4.

[17] For backtesting comparisons, NSCC uses the Required Deposit amount without regard to the actual collateral posted by the Member.

[18] *See* 17 CFR 240.17Ad–22(e)(6)(i), (vi).

[19] Gap risk events may include, for example, earning reports, management changes, merger announcements, insolvency, or other unexpected, issuer-specific events.

an appropriate look-back period that is at least 253 days.

NSCC would perform both calculations using the parametric VaR model—one using the existing EWMA volatility estimation and an additional calculation using the proposed evenly-weighted volatility estimation—and would use the highest result of these calculations as the Core Parametric Estimation in connection with calculating a Member's VaR Charge. NSCC believes that, while the existing EWMA calculation provides adequate responsiveness to increasing market volatility, as described above, the proposed evenly-weighted calculation would be better at covering the risk of a rapid change in market volatility levels by retaining market observations from the entire historical data set. Therefore, by using both calculations and selecting the higher result, NSCC would be able to more effectively cover its credit exposures and mitigate the risk presented by different market conditions in arriving at a final Core Parametric Estimation.

In order to implement the proposed change, NSCC would amend Procedure XV of the Rules by creating a new subjection (I) to Sections I(A)(1)(a)(i) and I(A)(2)(a)(i) of the Rules, which would define the Core Parametric Estimate as the higher result of two calculations—and EWMA calculation and the proposed evenly-weighted calculation—both utilizing the parametric VaR model.

Gap Risk Measure. NSCC is also proposing to introduce the Gap Risk Measure as an additional calculation that, when applicable, would be used to determine a Member's final VaR Charge.

The proposed Gap Risk Measure would be calculated to address the risks presented by a portfolio that is more susceptible to the effects of gap risk events due to the idiosyncratic nature of the Net Unsettled Positions in that portfolio. For example, the proposed calculation would address the risk that a gap risk event affects the price of a security in which a portfolio holds a Net Unsettled Position that represents more than a certain percent of the entire portfolio's value, such that the event could impact the entire portfolio's value. The proposed Gap Risk Measure would supplement the calculation of the Core Parametric Estimation because a parametric VaR model calculation is not designed to fully capture this specific risk presented by a concentrated position in a Member's portfolio.

The proposed Gap Risk Measure would only be applied for a Member if the Net Unsettled Position with the largest absolute market value in the portfolio represents more than a certain percent of the entire portfolio's value (''concentration threshold''). NSCC is proposing a concentration threshold to the application of the Gap Risk Measure because its backtesting results have shown that portfolios with a Net Unsettled Position that represents a proportional value of the entire portfolio over 30 percent tend to have backtesting coverage below the target 99 percent confidence level. These results also show that these portfolios are more susceptible to the effects of gap risk events that the proposed calculation is designed to measure. Therefore, NSCC would only apply the Gap Risk Measure charge if the Net Unsettled Position with the largest absolute market value in a Member's portfolio represents more than 30 percent of that Member's entire portfolio value. NSCC would set 30 percent as the ceiling for the concentration threshold, and would evaluate the threshold periodically based on the Member's backtesting results during a time period of not less than the previous twelve months to determine if it may be appropriate to the threshold at a lower percent.

Additionally, NSCC believes the risk of large, unexpected price movements, particularly those caused by a gap risk event, may have a greater impact on portfolios with large Net Unsettled Positions in securities that are susceptible to those events. Generally, index-based exchange-traded funds track closely to similar equity indices and are less prone to the effects of gap risk events. As such, if the concentration threshold is met, NSCC would calculate the Gap Risk Measure for Net Unsettled Positions in the portfolio, other than positions in index-based exchange traded funds (referred to herein for ease of reference as ''non-index Net Unsettled Positions'').[20]

When applicable, NSCC would calculate the Gap Risk Measure by multiplying the gross market value of the largest non-index Net Unsettled Position in the portfolio by a percent of not less than 10 percent.[21] NSCC would determine such percent empirically as no less than the larger of the 1st and 99th percentiles of three-day returns of a set of CUSIPs that are subject to the VaR Charge pursuant to the Rules,[22] giving equal rank to each to determine which has the highest movement over that three-day period. NSCC would use a look-back period of not less than ten years that includes a one-year stress period.[23] If the one-year stress period overlaps with the look-back period, only the non-overlapping period would be combined with the look-back period. The result would then be rounded up to the nearest whole percentage.

By calculating this charge as a percent of the gross market value of the largest non-index Net Unsettled Position that exceeds the set threshold, NSCC believes the proposed Gap Risk Measure would allow it to capture the risk that a gap risk event affects the price of a security in which the Member holds a concentrated position and, due to the disproportionate value of this position in the Member's portfolio, the impact of that event affects the entire portfolio. This calculation, as an additional measure for the VaR Charge, would permit NSCC to assess an adequate amount of margin to cover the gap risks not captured by the parametric VaR model calculations. As such, the proposed calculation would contribute to NSCC's goal of producing margin levels commensurate with the risks and particular attributes of each Member's portfolio.

In order to implement this proposed change, NSCC would amend Procedure XV of the Rules by creating a new subjection (II) to Sections I(A)(1)(a)(i) and I(A)(2)(a)(i) of the Rules, which would describe the calculation of the Gap Risk Measure.

Portfolio Margin Floor. NSCC is also proposing to introduce the Portfolio Margin Floor as an additional calculation that, when applicable, would be used to determine a Member's final VaR Charge.

The proposed Portfolio Margin Floor would be calculated to address risks that may not be adequately accounted for in the other calculations of the VaR Charge by operating as a floor to, or minimum amount of, the final VaR Charge. A parametric VaR model may result in a low VaR Charge for balanced portfolios. For example, in

[20] NSCC would use a third-party market provider to identify index-based exchange-traded funds. The third-party market provider would identify index-based exchange-traded funds as those with criteria that requires the portfolio returns to track to a broad market index. Exchange-traded funds that do not meet this criteria would not be considered index-based exchange-traded funds and would be included the Gap Risk Measure calculation.

[21] NSCC believes it is prudent to set a floor for the Gap Risk Measure charge, and has determined that a floor of 10 percent would appropriately align this charge with the charge that is applied to Net Unsettled Positions in certain securities that are excluded from the VaR Charge and instead charged a similar haircut-based volatility component. *See supra* note 12.

[22] *Supra* note 12.

[23] NSCC believes using a look-back period of not less than ten years that includes a one-year stress period would provide it with a stable risk measurement that incorporates a sufficient look-back period that would be appropriate for purposes of determining the appropriate percent to use in the calculation of the Gap Risk Measure.

circumstances where the gross market value of a Member's Net Unsettled Positions is high and the cost of liquidation in the event that Member defaults could also be high, the parametric VaR model may not adequately measure the potential costs of liquidation. The proposed charge would be based on the balance and direction of Net Unsettled Positions in the Members' portfolio and is designed to be proportional to the market value of the portfolio. In this way, the Portfolio Margin Floor would allow NSCC to more effectively cover its credit exposures.

The Portfolio Margin Floor would be the sum of two separate calculations, both of which would measure the market value of the portfolio based on the direction of Net Unsettled Positions in that portfolio. In this way, the calculation would effectively set a floor on the VaR Charge based on the composition of the portfolio and would mitigate the risk that low price volatility in portfolios with either large gross market values or large net directional market values could hinder NSCC's ability to effectively liquidate or hedge the Member's portfolio in three business days.

First, NSCC would calculate the net directional market value of the portfolio by calculating the absolute difference between the market value of the long Net Unsettled Positions and the market value of the short Net Unsettled Positions in the portfolio,[24] and then multiplying that amount by a percentage. Such percentage would be determined by examining the annual historical volatility levels of benchmark equity indices over a historical look-back period, as a standard and generally accepted reference that incorporates sufficient data history. Second, NSCC would calculate the balanced market value of the portfolio by taking the lowest market value of either (i) the long Net Unsettled Positions, or (ii) the short Net Unsettled Positions in the portfolio,[25] and then multiplying that value by a percentage. Such percentage would generally be a fraction of the percentage used in the calculation of the net directional market value of the portfolio and would be an amount that covers the transaction costs and other basis risks present for the Net Unsettled Positions in that portfolio.[26]

NSCC would add the results of these two calculations to arrive at the final Portfolio Margin Floor amount. The sum of these two calculations would provide a minimum VaR Charge by effectively establishing a margin floor for certain portfolios that may not be effectively assessed in the other calculations of the VaR Charge. NSCC would compare the Portfolio Margin Floor result with the Gap Risk Measure, when applicable, and the Core Parametric Estimation and would use the highest of the three calculations as the final VaR Charge for each Member, as applicable.

In order to implement this proposed change, NSCC would amend Procedure XV of the Rules by creating a new subjection (III) to Sections I(A)(1)(a)(i) and I(A)(2)(a)(i) of the Rules, which would describe the calculation of the Portfolio Margin Floor.

(iii) Eliminating the MMD Charge

Finally, NSCC is proposing to eliminate the MMD Charge from its Clearing Fund calculation. The MMD Charge is an existing component of the Clearing Fund formula and is calculated for Members that are Market Makers and Members that clear for Market Makers.[27] The charge was introduced during a period of rapid growth in the adaptation of the internet, and was developed to address the risks presented by concentrated positions held specifically by Market Makers. The MMD Charge is described in Procedure XV of the Rules, which provides that, if the Market Maker (either the Member or the correspondent of the Member) holds a Net Unsettled Position that is greater than 40 percent of the overall unsettled long position (sum of each clearing broker's net long position) in that security in the CNS system, NSCC may impose the MMD Charge. NSCC calculates the MMD charge as the sum of each of the absolute values of the Net Unsettled Positions in these securities, less the reported amount of excess net capital for that Member.[28] The MMD charge is designed to address dominated securities that are susceptible to marketability and liquidation impairment because of the relative size of the Net Unsettled Positions that NSCC would have to liquidate or hedge in the case of Member default.

Since the MMD Charge was implemented, the U.S. equities market has evolved with improved price transparency, access across exchange venues, and participation by market liquidity providers to reduce the risks that the charge was designed to address. Further, NSCC believes the MMD Charge may not effectively address concentration risk because (1) it only applies to Net Unsettled Positions in certain dominated securities, as described above and currently in Procedure XV of the Rules; (2) it does not address concentration risk presented by Net Unsettled Positions in securities that are not listed on NASDAQ or in securities traded by firms that are not Market Makers; and (3) it does not account for concentration in market capitalization categories.

NSCC also believes that the proposed enhancements to the VaR Charge, specifically the introduction of an evenly-weighted volatility measure and the calculation of the Gap Risk Measure, would provide it with more effective measures of risks related to concentrated positions in its Members' portfolios. Subject to applicable thresholds, these proposed risk measures would be applicable to all Members as part of the calculation VaR Charge, and would not, like the MMD Charge, be limited to positions held by Market Makers. Further, as a threshold-based calculation, the Gap Risk Measure would provide NSCC with a more appropriate measure of the potential risk presented by a large Net Unsettled Position in a portfolio. Therefore, NSCC believes that these proposed enhancements to the VaR Charge and other existing risk management measures (described below) would provide it with more effective measures of the risks presented by concentrated positions, and, as such, it is appropriate to eliminate the MMD Charge.

In order to implement this proposed change, NSCC would amend Procedure XV of the Rules by removing subsection (d) of Section I(A)(1) and subsection (c) of Section I(A)(2) of the Rules, and renumbering the subsequent subsections accordingly.

(iv) Mitigating Risks of Concentrated Positions

For the reasons described above, NSCC believes that the proposed enhancements to its VaR Charge would allow it to better measure and mitigate the risks presented by certain Net Unsettled Positions, including the risk presented to NSCC when those positions are concentrated in a

[24] For example, if the market value of the long Net Unsettled Positions is $100,000, and the market value of the short Net Unsettled Positions is $200,000, the net directional market value of the portfolio is $100,000.

[25] For example, if the market value of the long Net Unsettled Positions is $100,000, and the market value of the short Net Unsettled Positions is $110,000, the balanced market value of the portfolio is $100,000.

[26] NSCC would use a third-party market provider to identify these transaction costs and other basis risks.

[27] *See* Procedure XV, Section I(A)(1)(d) of the Rules, *supra* note 4.

[28] NSCC does not apply the excess net capital offset for Members rated 7 on the Credit Risk Rating Matrix. *See* Procedure XV, Sections I(A)(1)(d) and I(A)(2)(c) of the Rules, *supra* note 4.

particular security. One of the risks presented by a Net Unsettled Position concentrated in an asset class is that NSCC may not be able to liquidate or hedge the Net Unsettled Positions of a defaulted Member in the assumed timeframe at the market price in the event of a Member default. Because NSCC relies on external market data in connection with monitoring exposures to its Members, the market data may not reflect the market impact transaction costs associated with the potential liquidation as the concentration risk of a Net Unsettled Position increases. However, NSCC believes that, through the proposed changes and through existing risk management measures,[29] it would be able to effectively measure and mitigate risks presented when a Member's Net Unsettled Positions are concentrated in a particular security.

NSCC will continue to evaluate its exposures to these risks. Any future, proposed changes to the margining methodology to address such risks would be subject to a separate proposed rule change pursuant to Section 19(b)(1) of the Act,[30] and the rules thereunder, and advance notice pursuant to Section 806(e)(1) of the Clearing Supervision Act,[31] and the rules thereunder.

Expected Effect on and Management of Risk

NSCC believes that the proposed changes to enhance the calculation of the VaR Charge would enable NSCC to better limit its exposure to Members arising out of their Net Unsettled Positions. The proposal to enhance the calculation of the VaR Charge would enable NSCC to limit its credit exposures posed by portfolios whose risk characteristics are not effectively covered by the current VaR Charge. The proposal to add another calculation of the VaR Charge using the VaR model but incorporating an evenly-weighted volatility measure would permit NSCC to more effectively measure the risk of a rapid change in market price volatility, which may not be adequately covered by the calculation that incorporates an EWMA volatility estimation. The addition of the Gap Risk Measure, when applicable, and the Portfolio Margin Floor calculations would provide alternative measurements of the market price volatility of a Member's Net Unsettled Positions, enabling NSCC to assess a VaR Charge that accounts for risks related to gap risk events, and risks related to the unique compositions of securities within a Member's Net Unsettled Positions, respectively and as described in greater detail above. Therefore, by enabling NSCC to calculate and collect margin that more accurately reflects the risk characteristics of securities in its Members' Net Unsettled Positions, the proposal would enhance NSCC's risk management capabilities.

NSCC's proposal to eliminate the MMD Charge would affect NSCC's management of risk by removing a component from the Clearing Fund calculations that has a limited scope, and was designed to address risks related to a Member's concentration risks that would be more adequately addressed by other proposed and existing risk management measures.

By providing NSCC with a more effective measurement of its exposures, as described above, the proposed change would also mitigate risk for Members because lowering the risk profile for NSCC would in turn lower the risk exposure that Members may have with respect to NSCC in its role as a central counterparty.

Consistency With the Clearing Supervision Act

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[32]

Section 805(a)(2) of the Clearing Supervision Act[33] authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like NSCC, and financial institutions engaged in designated activities for which the Commission is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Clearing Supervision Act[34] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to, among other things, promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system. The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act[35] and Section 17A of the Exchange Act (''Covered Clearing Agency Standards'').[36] The Covered Clearing Agency Standards require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[37]

(i) Consistency With Section 805(b) of the Clearing Supervision Act

For the reasons described below, NSCC believes that the proposed changes in this advance notice are consistent with the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act and in the Covered Clearing Agency Standards.

As discussed above, NSCC is proposing a number of changes to the way it calculates the VaR Charge, one of the components of its Members' Required Deposits—a key tool that NSCC uses to mitigate potential losses to NSCC associated with liquidating a Member's portfolio in the event of Member default. NSCC believes the proposed changes are consistent with promoting robust risk management because they are designed to enable NSCC to better limit its exposure to Members in the event of a Member default.

First, NSCC's proposal to introduce an additional calculation using its parametric VaR model that uses an evenly-weighted volatility estimation would better enable NSCC to limit its exposures to Members by enhancing the calculation of the VaR Charge to better cover the risk of a rapid change in market price volatility levels, including, for example, a drop in portfolio volatility in a stabilizing market. Second, the proposal to introduce the Gap Risk Measure calculation as an additional measure of volatility in connection with the calculation of the VaR Charge would better enable NSCC

[29] For example, pursuant to existing authority under Procedure XV, Sections I(A)(1)(e) and I(A)(2)(d) of the Rules (to be re-numbered pursuant this advance notice to Sections I(A)(1)(d) and I(A)(2)(c) of Procedure XV of the Rules), NSCC may require an additional payment as part of a Member's Required Deposit in the event it observes price fluctuations in or volatility or lack of liquidity of any security that are not otherwise addressed by its VaR Charge or the other components of the Clearing Fund. An example of where this additional payment may be required is in circumstances where NSCC identifies an exposure that is not adequately addressed by its margining methodology. *Supra* note 4.

[30] 15 U.S.C. 78s(b)(1).

[31] 12 U.S.C. 5465(e)(1).

[32] *See* 12 U.S.C. 5461(b).

[33] 12 U.S.C. 5464(a)(2).

[34] 12 U.S.C. 5464(b).

[35] 12 U.S.C. 5464(a)(2).

[36] *See* 17 CFR 240.17Ad–22(e).

[37] *Id.*

to limit its exposures to Members by more effectively capturing the risk that gap risk events impact the entire portfolio's value due to the idiosyncratic nature of the Net Unsettled Positions in that portfolio. Third, the proposal to introduce the Portfolio Margin Floor in its calculation of a Member's VaR Charge would enable NSCC to better limit its exposures to Members by better capturing the risks that may not be adequately accounted for in the other calculations of the VaR Charge. Finally, NSCC's proposal to eliminate the MMD Charge would enable NSCC to remove a component of the Required Deposit that provides NSCC with only a limited measure of risks presented by Net Unsettled Positions that are concentrated in certain securities, which NSCC believes it can more adequately measure through other proposed and existing risk management measures, as described above.

Therefore, because the proposal is designed to enable NSCC to better limit its exposure to Members in the manner described above, NSCC believes it is consistent with promoting robust risk management.

Furthermore, NSCC believes that the changes proposed in this advance notice are consistent with promoting safety and soundness, which, in turn, is consistent with reducing systemic risks and supporting the stability of the broader financial system, consistent with Section 805(b) of the Clearing Supervision Act.[38] The proposed changes are designed to better limit NSCC's exposures to Members in the event of Member default. As discussed above, the proposed enhancements to the calculation of the VaR Charge would enable NSCC to view and respond more effectively to market price risk. The proposal to introduce an additional calculation of the VaR Charge using the VaR model that incorporates an evenly-weighted volatility measure, rather than an EWMA volatility estimation, would permit NSCC to more effectively measure the risk of a rapid change in market price volatility. The proposed Gap Risk Measure would provide NSCC with a more appropriate measure of the potential risk presented by a large Net Unsettled Position in a portfolio. The proposed Portfolio Margin Floor would ensure NSCC collects at least a minimum VaR Charge. Finally, removing the MMD Charge would help ensure the Clearing Fund calculation would not include unnecessary components that have only limited application, particularly where NSCC is able to better address the risks this charge was designed to address through other proposed and existing risk management measures.

By better limiting NSCC's exposures to Members in the event of a Member default, the proposed changes are consistent with promoting safety and soundness, which, in turn, is consistent with reducing systemic risks and supporting the stability of the broader financial system.

(ii) Consistency With Rule 17Ad–22(e)(4)(i) and (e)(6)(i) and (v) Under the Act

NSCC believes that the proposed changes are consistent with Rule 17Ad–22(e)(4)(i) and (e)(6)(i) and (v), each promulgated under the Act.[39]

Rule 17Ad–22(e)(4)(i) under the Act[40] requires, in part, that NSCC 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 arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.

As described above, the proposed changes would enable NSCC to better identify, measure, monitor, and, through the collection of Members' Required Deposits, manage its credit exposures to Members by maintaining sufficient resources to cover those credit exposures fully with a high degree of confidence. Each of the additional calculations that NSCC is proposing to introduce to enhance its methodology for calculating a Member's VaR Charge would provide NSCC with a more effective measure of the risks these calculations were designed to assess, as described above. As such, the proposed enhancements to the calculation of the VaR Charge would permit NSCC 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 Member default. The proposal to use the highest result of each of the calculations as among the Core Parametric Estimation, the Gap Risk Measure and the Portfolio Margin Floor, would enable NSCC to manage its credit exposures by allowing it to collect and maintain sufficient resources to cover those exposures fully and with a high degree of confidence.

Furthermore, removing the MMD Charge would enable NSCC to remove from the Clearing Fund calculations a component that is limited in scope and would allow it to address the risks presented by Net Unsettled Positions that are concentrated in certain securities more effectively by other Clearing Fund components and risk management measures.

Therefore, the proposal would enhance NSCC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. As such, NSCC believes the proposed changes are consistent with Rule 17Ad–22(e)(4)(i) under the Act.[41]

Rule 17Ad–22(e)(6)(i) under the Act[42] requires, in part, that NSCC 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 of each relevant product, portfolio, and market. Rule 17Ad–22(e)(6)(v) under the Act[43] requires, in part, that NSCC 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.

The Required Deposits are made up of risk-based components (as margin) that, that are calculated and assessed daily to limit NSCC's credit exposures to Members. NSCC's proposal to enhance the calculation of its VaR Charge in order to more effectively address market price volatility would permit it to produce margin levels that are commensurate with the particular risk attributes, including risks related to rapid changes in market price volatility levels due to gap risk events, or risks related to a unique composition of securities within a portfolio, as described above. For example, the use of an evenly-weighted volatility estimation utilizing the VaR model, as an additional calculation of the VaR Charge, which gives equal weight to a long historical data set, rather than more

[38] 12 U.S.C. 5464(b).

[39] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i) and (v).

[40] 17 CFR 240.17Ad–22(e)(4)(i).

[41] *Id.*

[42] 17 CFR 240.17Ad–22(e)(6)(i).

[43] 17 CFR 240.17Ad–22(e)(6)(v).

weight to recent observations, would permit NSCC to more effectively measure the risk of a rapid change in market price volatility. The addition of the Gap Risk Measure and the Portfolio Margin Floor would also provide NSCC with additional measurements of the market price volatility of a Member's Net Unsettled Position, enabling NSCC to assess a VaR Charge that accounts for the risks those charges are designed to address, as described above.

Finally, NSCC is proposing to eliminate the MMD Charge because this component of the Clearing Fund has only a limited application and, as such, does not provide as effective a measurement of the risk presented by Net Unsettled Positions that are concentrated in certain securities as other proposed and existing risk management measures. Therefore, the proposal to eliminate this charge would enable NSCC to remove an unnecessary component from the Clearing Fund calculation, and would help NSCC to rely on an appropriate method of measuring its exposures to this risk.

The proposed changes are designed to assist NSCC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of portfolios that exhibit idiosyncratic risk attributes, are more susceptible to price volatility caused by to gap risk events, and contain concentrated Net Unsettled Positions. Therefore, NSCC believes the proposed change is consistent with Rule 17Ad–22(e)(6)(i) and (v) under the Act.[44]

III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its website of proposed changes that are implemented.

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 Advance Notice is consistent with the Clearing Supervision 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–NSCC–2017–808 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–NSCC–2017–808. 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 Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice 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 NSCC 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–NSCC–2017–808 and should be submitted on or before February 23, 2018.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–02543 Filed 2–7–18; 8:45 am]

BILLING CODE 8011–01–P

[44] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82626; File No. S7–27–11]

Order Extending Until February 5, 2019 Certain Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Revision of the Definition of "Security" To Encompass Security-Based Swaps and Request for Comment

February 2, 2018.

I. Introduction

The Securities and Exchange Commission ("Commission") is (i) extending until February 5, 2019 certain temporary exemptive relief originally provided by the Commission in connection with the revision of the definition of "security" in the Securities Exchange Act of 1934 ("Exchange Act") to encompass security-based swaps ("Temporary Exemptions");[1] and (ii) requesting comment on whether continuing such exemptive relief beyond February 5, 2019 is necessary or appropriate in the public interest, and is consistent with the protection of investors.

II. Discussion

A. Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act[2] amended the definition of "security" under the Exchange Act to expressly encompass security-based

[1] *See* Order Granting Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Pending Revisions of the Definition of "Security" to Encompass Security-Based Swaps, Exchange Act Release No. 64795 (July 1, 2011), 76 FR 39927 (July 7, 2011) ("Exchange Act Exemptive Order").

[2] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124, Stat. 1376 (2010) ("Dodd-Frank Act").

swaps.[3] The expansion of the definition of the term ''security'' to include security-based swaps had the effect of changing the scope of the Exchange Act regulatory provisions that apply to security-based swaps and, in doing so, raised certain complex questions that require further consideration.

On July 1, 2011, the Commission issued the Exchange Act Exemptive Order granting temporary exemptive relief from compliance with certain provisions of the Exchange Act in connection with the revision of the Exchange Act definition of ''security'' to encompass security-based swaps.[4] In general, the Exchange Act Exemptive Order granted temporary exemptive relief from compliance with certain provisions of the Exchange Act in connection with security-based swap activity by: (i) Any person who meets the definition of ''eligible contract participant'' (''ECPs'') set forth in Section 1a(12) of the Commodity Exchange Act as of July 20, 2010 (*i.e.,* the day prior to the date the Dodd-Frank Act was signed into law) and (ii) a broker or dealer registered under Section 15(b) of the Exchange Act.[5]

The overall approach of the Exchange Act Exemptive Order was directed toward maintaining the *status quo* during the implementation process for the Dodd-Frank Act.[6] In the Exchange Act Exemptive Order, the Commission stated that it would accomplish this ''by preserving the application of particular Exchange Act requirements that already are applicable in connection with instruments that will be 'security-based swaps' following the Effective Date [of the Dodd-Frank Act], but deferring the applicability of additional Exchange Act requirements in connection with those instruments explicitly being defined as 'securities' as of the Effective Date.'' [7]

In 2014, the Commission extended the expiration dates for the Temporary Exemptions.[8] In the 2014 Extension Order, the Commission distinguished between: (i) The Temporary Exemptions related to pending security-based swap rulemakings (''Linked Temporary Exemptions''); and (ii) the Temporary Exemptions that generally were not directly related to a specific security-based swap rulemaking (''Unlinked Temporary Exemptions''). The expiration dates for the Linked Temporary Exemptions established by the 2014 Extension Order were the compliance dates for the specific rulemakings to which they were ''linked,'' and the expiration date for the Unlinked Temporary Exemptions was three years following the effective date of the 2014 Extension Order (*i.e.,* February 5, 2017), or such time that the Commission issues an order or rule determining whether continuing exemptive relief is appropriate for security-based swaps with respect to any such Unlinked Temporary Exemptions. This approach was designed to provide the Commission with flexibility while its Dodd-Frank Act rulemaking is still in progress to determine whether continuing relief should be provided for any of the Unlinked Temporary Exemptions.[9]

[3] *See* Section 761(a)(2) of the Dodd-Frank Act (amending Section 3(a)(10) of the Exchange Act (15 U.S.C. 78c(a)(10)). The provisions of Title VII generally became effective on July 16, 2011 (360 days after the enactment of the Dodd-Frank Act) (the ''Effective Date''), unless a provision required a rulemaking, in which case the provision would go into effect ''not less than'' 60 days after publication of the related final rules in the **Federal Register** or on July 16, 2011, whichever is later. *See* Section 774 of the Dodd-Frank Act (15 U.S.C. 77b).

[4] At the time it issued the Exchange Act Exemptive Order, the Commission also adopted interim final Rule 240 under the Securities Act of 1933 (''Securities Act''), interim final Rules 12a–11 and 12h–1(i) under the Exchange Act, and interim final Rule 4d–12 under the Trust Indenture Act (''Trust Indenture Act''). *See* 17 CFR 230.240, 17 CFR 240.12a–11, 17 CFR 240.12h–1, and 17 CFR 260.4d–12. *See also* Exemptions for Security-Based Swaps, Securities Act Release No. 9231 (July 1, 2011), 76 FR 40605 (July 11, 2011). This extension order does not address these interim final rules, which are scheduled to expire on February 11, 2018. *See* Exemptions for Security-Based Swaps, Securities Act Release No. 10305 (Feb. 10, 2017), 82 FR 10703 (Feb. 15, 2017). The Commission recently adopted a rule under the Securities Act to provide that certain communications involving security-based swaps will not be deemed to constitute ''offers'' of such security-based swaps for purposes of Section 5 of the Securities Act. *See* Treatment of Certain Communications Involving Security-Based Swaps That May Be Purchased Only By Eligible Contract Participants, Securities Act Release No. 10450 (Jan. 5, 2018), 83 FR 2046 (Jan. 16, 2018).

The Commission also, on June 15, 2011, issued an exemptive order granting temporary relief from compliance with certain provisions added to the Exchange Act by subtitle B of Title VII of the Dodd-Frank Act with which compliance would have otherwise been required as of the Effective Date. In that order, the Commission provided guidance regarding the provisions of the Exchange Act that were added by Title VII with which compliance was required as of the Effective Date. *See* Temporary Exemptions and Other Temporary Relief, Together with Information on Compliance Dates for New Provisions of the Securities Exchange Act of 1934 Applicable to Securities-Based Swaps, Exchange Act Release No. 64678 (June 15, 2011), 76 FR 36287 (June 22, 2011).

[5] *See* Exchange Act Exemptive Order, 76 FR at 39938–39. The Exchange Act Exemptive Order did not provide exemptive relief for any provisions or rules prohibiting fraud, manipulation, or insider trading (other than the prophylactic reporting or recordkeeping requirements such as the confirmation requirements of Exchange Act Rule 10b–10). In addition, the Exchange Act Exemptive Order did not affect the Commission's investigative, enforcement, and procedural authority related to those provisions and rules. *See* Exchange Act Exemptive Order at 39931, note 34. The Exchange Act Exemptive Order also did not address Sections 12, 13, 14, 15(d), 16, and 17A of the Exchange Act and the rules thereunder. The Commission did, however, issue limited temporary relief from the clearing agency registration requirements under Section 17A(b) for entities providing certain clearing services for security-based swaps. This relief was linked to final rules issued by the Commission relating to the registration of clearing agencies that clear security-based swaps. *See* Order Pursuant to Section 36 of the Securities Exchange Act of 1934 Granting Temporary Exemptions from Clearing Agency Registration Requirements under Section 17A(b) of the Exchange Act for Entities Providing Certain Clearing Services for Security-Based Swaps, Exchange Act Release No. 64796 (July 1, 2011), 76 FR 39963 (July 7, 2011).

The Commission also provided a temporary exemption within the Exchange Act Exemptive Order for Sections 5 and 6 of the Exchange Act and linked the expiration date of that exemptive relief until the earliest compliance date set forth in any of the final rules regarding registration of security-based swap execution facilities. *See* Exchange Act Exemptive Order, 76 FR at 39934–36.

The Exchange Act Exemptive Order further provided that no security-based swap contract entered into on or after July 16, 2011 shall be void or considered voidable by reason of Section 29(b) of the Exchange Act because any person that is a party to the contract violated a provision of the Exchange Act for which the Commission has provided exemptive relief in the Exchange Act Exemptive Order, until such time as the underlying exemptive relief expires. By extending the underlying exemptive relief until February 5, 2019, this order will also extend the relevant Section 29(b) relief until that same date. *See* Exchange Act Exemptive Order, 76 FR at 39938–39.

[6] *See* Exchange Act Exemptive Order, 76 FR at 39929.

[7] *Id.* These instruments generally constituted ''security-based swap agreements'' under the pre-Dodd-Frank Act framework and were already subject to specific antifraud and anti-manipulation provisions under the Exchange Act (including Exchange Act Section 10(b)). Under the Exchange Act Exemption Order, instruments that (before the Effective Date) were security-based swap agreements and (after the Effective Date) constituted security-based swaps were still subject to the application of those Exchange Act provisions. *See* Exchange Act Exemptive Order, 76 FR at 39930, nn. 24–25.

[8] *See* Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, and Request for Comment, Exchange Act Release No. 71485 (Feb. 5, 2014), 79 FR 7731 (Feb. 10, 2014) (''2014 Extension Order'') (extending the expiration date for certain Temporary Exemptions to February 5, 2017). *See also* Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, Exchange Act Release No. 67453 (July 18, 2012), 77 FR 48207 (Aug. 13, 2012) (''Product Definitions Adopting Release'') (extending the expiration date of the Temporary Exemptions to February 11, 2013); Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps, and Request for Comment, Exchange Act Release No. 68864 (Feb. 7, 2013), 78 FR 10218 (Feb. 13, 2013) (extending the expiration date to February 11, 2014).

[9] *See* 2014 Extension Order, 79 FR at 7731. The 2014 Extension Order also linked the expiration date of the Linked Temporary Exemptions to the compliance date for such rulemakings. The 2014 Extension Order identified the Linked Temporary Exemptions as those related to: (1) Capital and margin requirements applicable to a broker or dealer (Sections 7 and 15(c)(3), Regulation T, and Exchange Act Rules 15c3–1, 15c3–3, and 15c3–4); (2) recordkeeping requirements applicable to a broker or dealer (Sections 17(a) and 17(b) and

The Commission most recently extended the expiration date of the Unlinked Temporary Exemptions until February 5, 2018.[10] In the 2017 Extension Order, the Commission also requested comment on whether continuing exemptive relief is necessary beyond February 5, 2018.[11] Two commenters expressed support for extending the exemptive relief, with one reiterating its prior request that the Commission provide permanent exemptive and other relief to security-based swap market participants from the Exchange Act and the Securities Act.[12]

B. Extension of Unlinked Temporary Exemptions

Since the issuance of the 2014 Extension Order, the Commission has implemented a substantial portion of the regulatory regime for security-based swaps set forth in Title VII of the Dodd-Frank Act.[13] However, the Commission is still in the process of finalizing its rules under Title VII of the Dodd-Frank Act.[14] Therefore, the Commission believes it is necessary or appropriate in the public interest, and consistent with the protection of investors to extend the Unlinked Temporary Exemptions until February 5, 2019 to avoid any potential market disruption stemming from the application of certain Exchange Act provisions and rules to security-based swap activities. This approach also will provide the Commission with additional time to consider the potential impact of the revision of the Exchange Act definition of ''security.''

As noted above, one commenter has suggested that the Commission extend the expiration date for the Unlinked Temporary Exemptions until a time that the Commission can provide appropriate permanent relief and other relief to security-based swap market participants from the federal securities laws that apply to security-based swaps due to their inclusion in the definition of ''security'' under the Exchange Act.[15] The Commission recognizes that the security-based swap market and corresponding regulatory regime have continued to develop since it originally issued the Exchange Act Exemptive Order in 2011. While the Commission has adopted many of the rules required under Title VII, it has proposed but not yet finalized others, including rules relating to the capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants. Before the Commission considers any permanent exemptive relief, the Commission believes that additional time will be beneficial to evaluate the new regulatory regime and its impact on the market for security-based swaps once the Commission has finalized its rulemakings. Therefore, at this time, the Commission is not making a determination on whether permanent relief should be provided for the Unlinked Temporary Exemptions.

Accordingly, pursuant to its authority under Section 36 of the Exchange Act,[16] the Commission believes it is necessary or appropriate in the public interest, and consistent with the protection of investors to extend the expiration of the Unlinked Temporary Exemptions until February 5, 2019.

III. Solicitation of Comments

The Commission is providing interested parties the opportunity to comment on whether any relief should be granted with respect to any specific Unlinked Temporary Exemption(s) beyond February 5, 2019. The

Exchange Act Rules 17a–3, 17a–4, 17a–5, 17a–11, and 17a–13); (3) registration requirements under Section 15(a)(1), and the other requirements of the Exchange Act and the rules and regulations thereunder that apply to a ''broker'' or ''dealer'' that is not registered with the Commission; (4) Exchange Act Rule 10b–10; and (5) Regulation ATS. Accordingly, as applicable, the Commission extended these exemptions until the compliance date for pending rulemakings concerning: capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants; recordkeeping and reporting requirements for broker-dealers, security-based swap dealers, and major security-based swap participants; security-based swap trade acknowledgements; and registration requirements for security-based swap execution facilities.

The Linked Temporary Exemptions are not addressed in this order and will be separately considered in connection with the related security-based swap rulemakings. The Commission has already addressed some of the Linked Temporary Exemptions. For example, on June 8, 2016, the Commission adopted new rules for trade acknowledgement and verification of security-based swap transactions. *See* Trade Acknowledgement and Verification of Security-Based Swap Transactions, Exchange Act Release No. 78011 (June 8, 2016), 81 FR 39807 (June 17, 2016) (''Trade Acknowledgement Release''). In that release, the Commission described the application of Exchange Act Rule 10b–10 to transactions in security-based swaps and noted that the Linked Temporary Exemption relating to Exchange Act Rule 10b-10 would expire upon the compliance date of the new Rule 15Fi–2. *See* Trade Acknowledgement Release, 81 FR at 39824–25, n. 189.

[10] *See* Order Extending Certain Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with the Revision of the Definition of ''Security'' to Encompass Security-Based Swaps and Request for Comment, Exchange Act Release No. 79833 (Jan. 18, 2017), 82 FR 8467 (Jan. 25, 2017) (''2017 Extension Order'').

[11] Comments received are available at *https://www.sec.gov/comments/s7-27-11/s72711.shtml.* The Commission did not receive any comments in response to the request for comment in the 2014 Extension Order. However, in 2012, the Commission received a request from market participants to extend certain of the Temporary Exemptions, citing concerns that key issues and questions regarding the application of the federal securities laws remained unresolved and continuing concerns about the potential for unnecessary disruption to the security-based swap market. See SIFMA Request for Extension of the Expiration Date of the SEC's Exchange Act Exemptive Order and SBS Interim final Rules (Dec. 20, 2012), which is available at *http://www.sec.gov/comments/s7-27-11/s72711-12.pdf.*

[12] *See* comment from Layla Spencer, dated January 30, 2017; and letters from Kyle Brandon, Managing Director, SIFMA, dated February 2, 2017 (''SIFMA Letter I'') and January 11, 2018 (''SIFMA Letter II'') (requesting that the Commission further extend the exemptive relief for the Unlinked Temporary Exemptions). For details regarding SIFMA's request for permanent exemptive and other relief, see Draft SIFMA SBS Exemptive Relief Request (Oct. 20, 2011), which is available at *https://www.sec.gov/comments/s7-27-11/s72711-7.pdf,* and SIFMA SBS Exemptive Relief Request (Dec. 5, 2011), which is available at *https://www.sec.gov/comments/s7-27-11/s72711-10.pdf.* Two other commenters provided statements that are not germane to the consideration of the extension.

[13] *See, e.g.,* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Security-Based Swap Data Repository Registration, Duties, and Core Principles, Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14437 (Mar. 19, 2015); Registration Process for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release No. 75611 (Aug. 5, 2015), 80 FR 48963 (Aug. 14, 2015); Security-Based Swap Transactions Connected with a Non-U.S. Person's Dealing Activity That Are Arranged, Negotiated, or Executed By Personnel Located in a U.S. Branch or Office or in a U.S. Branch or Office of an Agent; Security-Based Swap Dealer De Minimis Exception, Exchange Act Release No. 77104 (Feb. 10, 2016), 81 FR 8597 (Feb. 19, 2016); Trade Acknowledgement Release; Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release 77617 (Apr. 14, 2016), 81 FR 29960 (May 13, 2016); Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, Exchange Act Release No. 78321 (July 14, 2016), 81 FR 53545 (Aug. 12, 2016); Access to Data Obtained by Security-Based Swap Data Repositories, Exchange Act Release No. 78716 (Aug. 29, 2016), 81 FR 60585 (Sept. 2, 2016).

[14] *See, e.g.,* Registration and Regulation of Security-Based Swap Execution Facilities, Exchange Act Release No. 63825 (Feb. 2, 2011), 76 FR 10948 (Feb. 28, 2011); Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213 (Nov. 23, 2012); Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers; Proposed Rules, Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25194 (May 2, 2014); Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Statutorily Disqualified Associated Person To Effect or Be Involved in Effecting Security-Based Swaps, Exchange Act Release No. 75612 (Aug 5, 2015), 80 FR 51684 (Aug. 25, 2015).

[15] *See* SIFMA Letter I and SIFMA Letter II.

[16] 15 U.S.C. 78mm. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt, by rule, regulation, or order any person, security, or transaction (or any class or classes of persons, securities, or transactions) from any provision of the Exchange Act or any rule or regulation thereunder, to the extent such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Commission recognizes that the security-based swap market and corresponding regulatory regime have developed in the period of time since the Commission originally issued the Exchange Act Exemptive Order, and will continue to do so. As such, to determine whether permanent exemptive relief is necessary or appropriate in the public interest, and consistent with the protection of investors, the Commission invites comments on the relief and requests that interested parties provide detailed and updated information relating to the Unlinked Temporary Exemptions.

To the extent that interested parties request specific relief for any of the Unlinked Temporary Exemptions beyond February 5, 2019, the Commission encourages any such interested parties to be detailed in any request as to the circumstances in which the Exchange Act provision or rule applies to security-based swaps or security-based swap market participants, and why relief would be necessary.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/exorders.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–27–11 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–27–11. This file number should be included on the subject line if email is used. To help us 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/exorders.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F St. NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change. Persons submitting comments are cautioned that the Commission does not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

IV. Conclusion

It is hereby ordered, pursuant to Section 36 of the Exchange Act, that the Unlinked Temporary Exemptions contained in the Exchange Act Exemptive Order and extended in the 2017 Extension Order in connection with the revisions of the Exchange Act definition of ''security'' to encompass security-based swaps are extended until February 5, 2019.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2018–02498 Filed 2–7–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82622; File No. SR–CBOE–2018–008]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Flexibly Structured Options

February 2, 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 19, 2018, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend its rules related to flexibly structured options (''FLEX Options''). The text of the proposed rule change is available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 is proposing to make certain revisions to Rules 24A.4.02, which contains certain requirements for a FLEX Option that has the exact same terms as a Non-FLEX Option.

FLEX Options with quarterly expirations, short term expirations, weekly expirations,[3] and End of Month (''EOM'') expirations are not currently fungible with Non-FLEX Options with identical terms. Such expirations were not originally intended to be fungible.[4]

[3] The Exchange notes that Rule 24.9(e) no longer uses the term End of Week (EOW) expirations. The Exchange added Monday and Wednesday expirations to Rule 24.9(e), and Monday, Wednesday, and Friday expirations are termed weekly expirations in Rule 24.9(e). *See* Rule 24.9(e).

[4] *See e.g.,* Securities Exchange Act Release Nos. 59060 (December 5, 2008), 73 FR 76075 (December 15, 2008)(SR–CBOE–2008–115 proposal notice); 59417 (February 18, 2009), 74 FR 8591 (February 25, 2009) (SR–CBOE–2008–115 approval order); and Securities Exchange Act Release 59675 (April 1, 2009), 74 FR 15794 (April 7, 2009) (SR–OCC–2009–05). FLEX Options with non-Expiration Friday expiration dates that coincide with other Non-FLEX option expiration dates and with terms identical to those Non-FLEX Options were permitted before, and were not originally intended by the Exchange to become subject to, the fungibility provisions adopted through SR–CBOE–2008–115 (*e.g.,* a FLEX Option that expires on the last day of a quarter and that has terms identical to a Non-FLEX Option series is not fungible with that Non-FLEX Option series; however, certain position limit aggregation requirements apply under Rules 24A.7(d)(1)–(2) and 24B.7(d)(1)–(2)). *See also, e.g.,* Securities Exchange Release Act Nos. 62658 (August 5, 2010), 75 FR 49010 (August 12, 2010)(SR–CBOE–2009–075 proposal notice) and 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (SR–CBOE–2009–075 approval order)(footnote 8 of the proposal notice indicates that FLEX Options do not become fungible with subsequently introduced Non-FLEX structured quarterly and short term options and that, because of the similarities between EOW and EOM expirations and existing Non-FLEX structured quarterly and short term options, FLEX Options will similarly not become fungible with EOW and EOM expirations listed for trading). As previously noted, Rule 24.9(e) was amended to include

The Exchange now proposes to add paragraph (a) to Interpretation and Policy .02 of Rule 24A.4 [5] in order to make all FLEX Options fungible with Non-FLEX options with identical terms, including quarterly expirations, short term expirations, weekly expirations, and EOM expirations.

The effect of the proposed rule change is that once an option series with identical terms is listed for trading as a Non-FLEX Option series, (i) all existing open positions established under the FLEX trading procedures will be fully fungible with transactions in the identical Non-FLEX Option series, and (ii) any further trading in the series would be as Non-FLEX Options subject to the Non-FLEX trading procedures and rules. The Exchange believes the proposed application of Rule 24A.4.02 to all FLEX Options will have the effect of more FLEX Options becoming fungible with Non-Flex Options, which will potentially increase the liquidity available to traders of FLEX Options.

Second, the Exchange proposes to codify existing practice by including rule text in paragraph (a) to Rule 24A4.02 to specify the applicability of Interpretation and Policy .02 in the event the relevant expiration is an Exchange holiday. The proposed text is as follows:

> In the event the relevant expiration is an Exchange holiday, this Interpretation and Policy shall be applicable to options with an expiration date that is the business day immediately preceding the Exchange holiday. Except, in the case of Monday expiring Weekly Expirations (Rule 24.9(e)(1)), this Interpretation and Policy shall be applicable to options with an expiration date that is the business day immediately following the Exchange Holiday.

Generally, if an expiration were to fall on an Exchange holiday, the expiration becomes the business day immediately preceding the Exchange holiday—except in the case of Monday expiring Weekly Expirations pursuant to Rule 24.9(e)(1), whereby the expiration becomes the business day immediately following the Exchange holiday.[6] Proposed paragraph (a) makes it clear that when the expiration of a Non-FLEX Option is moved to the immediately preceding (or following) business day the FLEX Option that also expires on the preceding (or following) business day will be fungible with the Non-FLEX Option (assuming all other terms are identical).

Third, we are proposing to change the text to clarify that the existing intra-day add provision only applies to FLEX Options that have an American-style exercise. Limiting the application of the intra-day add provision to American-style exercises was the Exchange's original intent when this provision was originally adopted.[7]

Finally, we are also proposing non-substantive, clarifying changes to simplify the text and make it easier to read. The changes are as follows:

(additions are underlined; deletions are [bracketed])

> Provided the options on an underlying security or index are otherwise eligible for FLEX trading, FLEX Options shall be permitted in puts and calls that do not have the same exercise style, same expiration date and same exercise price as Non-FLEX Options that are already available for trading on the same underlying security or index. FLEX Options shall also be permitted in series before [the options] series with identical terms are listed for trading as Non-FLEX Options. Once and if [the] an option series [are] with identical terms is listed for trading as Non-FLEX Options, (i) all existing open positions established under the FLEX trading procedures shall be fully fungible with transactions in the [respective] identical Non-FLEX Option series and (ii) any further trading in the series would be as Non-FLEX Options subject to the Non-FLEX trading procedures and rules. However, in the event [the] a Non-FLEX American-style series is added intra-day, a position established under the FLEX trading procedures would be permitted to be closed using the FLEX trading procedures for the balance of the trading day on which the Non-FLEX series is added against another closing only FLEX position.

The Exchange believes these non-substantive changes more clearly provide that the fungibility provisions apply to FLEX Option series with terms that are identical to the terms of a Non-FLEX Option series.

Monday and Wednesday expirations, and the term EOW was removed. All expirations listed pursuant to Rule 24.9(e) (*i.e.,* Monday, Wednesday, Friday, and EOM expirations) are currently not fungible.

[5] Chapter XXIVA contains the rules governing the execution of FLEX Options on the Hybrid Trading System. Prior to SR–CBOE–2018–003 Chapter XXIVA contained the rules governing the execution of FLEX Options in open outcry, and Chapter XXIVB contained the rules governing the execution of FLEX Options on the Hybrid Trading System. Pursuant to SR–CBOE–2018–003 Chapter XXIVB replaced Chapter XXIVA such that Chapter XXIVA now contains the rules governing the execution of FLEX Options on the Hybrid Trading System, and the rules governing the execution of FLEX Options in open outcry have been removed from the Exchange's rulebook.

[6] *See e.g.,* Rule 24.9(e)(1) (stating that if the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day, and if the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day).

[7] *See* Securities Exchange Act Release No. 62870 (September 8, 2010), 75 FR 56147 (September 15, 2010) (SR–CBOE–2010–078) (stating that there is assignment risk for American-style options only). In the event a Non-FLEX Option is listed with identical terms to an existing FLEX Option the Options Clearing Corporation (''OCC'') cannot net the positions in the contracts until the next business day. Thus, if the Non-FLEX Option were listed intra-day, and an investor with a position in the FLEX Option attempted to close the position using the Non-FLEX Option, the investor would be technically long in one contract and short in the other contract, exposing the investor to assignment risk until the next day despite having offsetting positions.

The Exchange notes that when a FLEX Option is fungible with the Non-FLEX option OCC converts any open interest in the FLEX Option to the Non-FLEX option. However, OCC's By-laws currently provide that:

> Once a series of non-flexibly structured options (other than a series of quarterly options or short term options) is opened for trading on an Exchange, any existing flexibly structured option contracts that have identical variable terms shall be fully fungible with options in such series, and shall cease to be flexibly structured options.[8]

The effect of ''other than a series of quarterly options or short term options'' in the above definition prevents OCC from carrying out the FLEX to Non-FLEX open interest conversion for options with quarterly expirations, short term expirations, weekly expirations, and EOM expirations. Thus, in order to give effect to the Cboe Options rule change, OCC will be amending its By-laws by removing ''other than a series of quarterly options or short term options'' from the definition. The Exchange notes that in situations where an OCC rule change is necessary to give effect to a Cboe Options rule change previous practice involved Cboe Options amending its rules and then OCC amending its rules.[9]

Implementation Date

In order to allow OCC the time necessary to amend its By-laws, the proposed rule text provides that the Exchange's current rule text will remain in effect until a date specified by the Exchange in a Regulatory Circular, which date shall be no later than July 31, 2018. The Regulatory Circular announcing the effective date shall be issued at least 30 days prior to the effective date. On the effective date specified by the Exchange in a Regulatory Circular, the rule text provisions amended by this filing will be in effect.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed application of Rule 24A.4.02 to all FLEX Options will have the effect of more FLEX Options becoming fungible with Non-Flex Options, which will potentially increase the liquidity available to traders of FLEX Options. The Exchange also believes the rule text regarding holidays will serve to make clear the Exchange's policies with regards to holidays. In addition, the Exchange believes that specifying that the intra-day add provision applies solely to American-style expirations will potentially provide more clarity regarding the manner in which the rules operate, which helps protect investors and the public interest. Finally, the non-substantive, clarifying changes of the proposed filing protect investors and the public interest by making the rule easier to read and understand.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because the rules will be applicable to all TPHs. The Exchange does not believe the proposal will negatively impact market participants because, importantly, more FLEX Options becoming fungible with Non-Flex Options will potentially increase the liquidity available to traders of FLEX Options (*e.g.,* there are more market participants transacting in Non-FLEX Options; thus, there is potentially more liquidity available to market participants with FLEX Options that will be able to, pursuant to this proposal, exit their FLEX Options positions by transacting in Non-FLEX Options). To the extent that the proposed rule change will cause market participants to choose Cboe Options over other trading venues, market participants on other exchanges are welcome to become TPHs and trade at Cboe Options if they determine that this proposed rule change has made Cboe Options more attractive or favorable.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2018–008. 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

[8] *See* definition of ''flexibly structured option'' in Article I of OCC By-laws.

[9] *See e.g.,* Securities Exchange Act Release 59675 (April 1, 2009), 74 FR 15794 (April 7, 2009) (SR–OCC–2009–05) and Securities Exchange Act Release 59417 (Feb. 18, 2009), 74 FR 8591 (Feb. 25, 2009) (SR–CBOE–2008–115).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

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–CBOE–2018–008 and should be submitted on or before March 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–02482 Filed 2–7–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82625; File No. SR–NYSEArca–2018–11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Certain Changes Regarding the U.S. Equity Cumulative Dividends Fund—Series 2027 and the U.S. Equity Ex-Dividend Fund—Series 2027

February 2, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 1, 2018, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes (1) to reflect a change in the description of the index underlying shares (''Shares'') of the U.S. Equity Ex-Dividend Fund—Series 2027; and (2) to revise the reference to the Custodian for the U.S. Equity Cumulative Dividends Fund—Series 2027 and the U.S. Equity Ex-Dividend Fund—Series 2027 (each a ''Fund'' and, collectively, the ''Funds''). Shares of the Funds have been approved by the Securities and Exchange Commission (the ''Commission'') for listing and trading on the Exchange under NYSE Arca Rule 8.200–E, Commentary .02. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved a proposed rule change relating to listing and trading on the Exchange of Shares of the Funds under NYSE Arca Rule 8.200–E,[4] which governs the listing and trading of Trust Issued Receipts.[5] The Shares will be offered by the Metaurus Equity Component Trust (the ''Trust''). Each Fund is a series of the Trust.[6] Shares of the Funds have been approved by the Commission for listing and trading on the Exchange under NYSE Arca Rule 8.200–E, Commentary .02. The Funds' Shares have not commenced trading on the Exchange.

With respect to the U.S. Equity Ex-Dividend Fund—Series 2027 Fund (''Ex-Dividend Fund''), the Prior Releases stated that, according to the Registration Statement, the Ex-Dividend Fund will seek investment results that, before fees and expenses, correspond to the performance of the Solactive U.S. Equity Ex-Dividends Index—Series 2027 so as to provide shareholders of the Ex-Dividend Fund with returns that are equivalent to the performance of 0.5 shares of SPDR® S&P 500 ETF (''SPDRs'') less the value of current and future expected ordinary cash dividends to be paid on the S&P 500 constituent companies over the term of the Ex-Dividend Fund. In addition, the Prior Releases stated that, according to the Registration Statement, the Solactive Ex-Dividend Index aims to represent the current value of 0.5 shares of SPDRs, less the current value of ordinary cash dividends expected to be paid on the S&P 500, until the Ex-Dividend Fund's maturity as represented by the Solactive Dividend Index and, because the Solactive Ex-Dividend Index tracks the performance of 0.5 shares of SPDRs and sums up the discounted values of the Annual S&P 500 Dividend Futures Contracts, no weighting is applied.

The Ex-Dividend Fund proposes to change these representations to state

[4] *See* Securities Exchange Act Release Nos. 81453 (August 22, 2017), 82 FR 40816 (August 28, 2017) (SR–NYSEArca–2017–88) (Notice of Filing of Proposed Rule Change to List and Trade the Shares of the U.S. Equity Cumulative Dividends Fund—Series 2027 and the U.S. Equity Ex-Dividend Fund—Series 2027 under NYSE Arca Equities Rule 8.200, Commentary .02) (''Prior Notice''); 82138 (November 21, 2017), 82 FR 56311 (November 28, 2017) (SR–NYSEArca–2017–88) (Order Approving Proposed Rule Change to List and Trade the Shares of the U.S. Equity Cumulative Dividends Fund—Series 2027 (''Dividend Fund'') and the U.S. Equity Ex-Dividend Fund—Series 2027 under NYSE Arca Equities Rule 8.200, Commentary .02) (''Prior Order''). *See also* Amendment No. 1 to SR–NYSEArca–2017–88, filed November 14, 2017 (''Amendment No. 1''), and Amendment No. 2 to SR–NYSEArca-2017–88 (''Amendment No. 2''), filed November 16, 2017. Amendment No. 1, Amendment No. 2 and the Prior Order are referred to collectively as the ''Prior Releases''. All terms referenced but not defined herein are defined in the Prior Releases.

[5] Commentary .02 to NYSE Arca Rule 8.200–E applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Rule 8.200–E, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[6] On January 30, 2018, the Trust filed with the Commission Pre-Effective Amendment No. 4 to its registration statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) relating to the Funds (File No. 333–221591) (the ''Registration Statement'').

that: (i) The Ex-Dividend Fund will seek investment results that, before fees and expenses, correspond to the performance of the Solactive U.S. Equity Ex-Dividends Index—Series 2027 so as to provide shareholders of the Ex-Dividend Fund with returns that are equivalent to the performance of 0.25 shares of SPDRs less the value of current and future expected ordinary cash dividends to be paid on the S&P 500 constituent companies over the term of the Ex-Dividend Fund, (ii) the Solactive Ex-Dividend Index aims to represent the current value of 0.25 shares of SPDRs, less the current value of ordinary cash dividends expected to be paid on the S&P 500, until the Ex-Dividend Fund's maturity as represented by the Solactive Dividend Index, and (iii) because the Solactive Ex-Dividend Index tracks the performance of 0.25 shares of SPDRs and sums up the discounted values of the Annual S&P 500 Dividend Futures Contracts, no weighting is applied.

Amendment No. 1 to the proposed rule change identified the Funds' Custodian as Bank of New York Mellon. This representation is changed to state that the Funds' Custodian will be Brown Brothers, Harriman & Co., as stated in the Prior Notice.

The Funds will comply with all initial and continued listing requirements under NYSE Arca Rule 8.200–E, Commentary .02. The only change with respect to the Funds' investment objective is that the Ex-Dividend Fund will seek investment results that, before fees and expenses, correspond to the performance of the Solactive U.S. Equity Ex-Dividends Index—Series 2027 so as to provide shareholders of the Ex-Dividend Fund with returns that are equivalent to the performance of 0.25 shares (rather than 0.50 shares) of SPDRs less the value of current and future expected ordinary cash dividends to be paid on the S&P 500 constituent companies over the term of the Ex-Dividend Fund. Except for the changes noted above, all other representations made in the Prior Releases remain unchanged.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are 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, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. With respect to the change to the Solactive Ex-Dividend Index, which aims to represent the current value of 0.25 shares of SPDRs (reduced from 0.50 as stated in the Prior Releases), less the current value of ordinary cash dividends expected to be paid on the S&P 500, the net asset value of the Ex-Dividend Fund's Shares was reduced by half in order to track a reduction by half of the value of the Solactive Dividend Index and the corresponding reduction by half of the net asset value of the Dividend Fund's Shares. The Sponsor has determined that the net asset value of the Dividend Fund's Shares would be too large for many retail investors of financial intermediaries. The Sponsor has determined that such reduction, which would consequently result in a proportionate reduction in the net asset value of Shares of the Ex-Dividend Fund (to represent the current value of 0.25 shares of SPDRs less the current value of ordinary cash dividends expected to be paid on the S&P 500), would be more appropriate for retail investors. The Exchange believes the proposed rule change relating to the Solactive Ex-Dividend Index will provide the Funds [sic] with the ability to price the Funds' [sic] Shares in a manner that the Exchange believes is more appropriate for retail investors, which will enhance market competition with respect to the Funds' [sic] Shares and may enhance liquidity in trading in the Funds' [sic] Shares. Such change will not impact operation of the Funds and will not adversely impact investors, Exchange trading or the ability of market participants to arbitrage the Funds.

The Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200–E, Commentary .02. Except for the changes noted above, all other representations made in the Prior Releases remain unchanged.

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 believes the proposed rule change relating to the Solactive Ex-Dividend Index will provide the Funds [sic] with the ability to price the Funds' [sic] Shares in a manner that the Exchange believes is more appropriate for retail investors, which will enhance market competition with respect to the Funds' [sic] Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) 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.

The Exchange states that modification of the investment objective of the Ex-Dividend Fund will adjust the price of the Shares to a level that the Exchange believes is more appropriate for retail investors. The Exchange asserts that this, in turn, will enhance market competition with respect to the Shares and may enhance their liquidity. Additionally, the Exchange states that this change, as well as the designation of a new custodian, will not impact the operation of the Funds or adversely impact investors. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[11]

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has also

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.

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–NYSEArca–2018–11 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–2018–11. 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–2018–11 and should be submitted on or before March 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–02484 Filed 2–7–18; 8:45 am]

BILLING CODE 8011–01–P

considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10308]

Meetings of the United States-Peru Environmental Affairs Council, Environmental Cooperation Commission, and Sub-Committee on Forest Sector Governance

ACTION: Notice of meetings and request for comments.

SUMMARY: The Department of State and the Office of the United States Trade Representative (USTR) are providing notice that, on February 21–22, 2018, the United States and Peru will hold the ninth meeting of the Sub-Committee on Forest Sector Governance (the ''Sub-Committee''), the seventh meeting of the Environmental Affairs Council (the ''Council''), and the fifth meeting of the Environmental Cooperation Commission (the ''Commission''). The public session for the Council, Commission and Sub-Committee will be held on February 22, 2018 at 3:00 p.m. All meetings will take place in Lima, Peru, at the Ministry of International Trade and Tourism (Mincetur).

DATES: The public session of the Council, Sub-Committee and Commission meetings will be held on February 22, 2018 at 3:00 p.m. Comments and suggestions are requested in writing no later than February 20, 2018.

ADDRESSES: All meetings will be held at Peru's Ministry of International Trade and Tourism (Mincetur), Calle Uno Oeste N 050 Urb. Corpac, San Isidro.

Written comments and suggestions should be submitted to both:

(1) Rachel Kastenberg, Office of Environmental Quality and Transboundary Issues, U.S. Department of State, by electronic mail at *KastenbergRL@state.gov* with the subject line ''U.S.-Peru EAC/ECC/Sub-Committee Meetings''; and

(2) Laura Buffo, Office of Environment and Natural Resources, Office of the United States Trade Representative, by electronic mail at *Laura_Buffo@ustr.eop.gov* with the subject line ''U.S.-Peru EAC/ECC/Sub-Committee Meetings.''

FOR FURTHER INFORMATION CONTACT: Rachel Kastenberg, Telephone (202) 647–6849 or Laura Buffo, Telephone (202) 395–9424.

SUPPLEMENTARY INFORMATION: The PTPA entered into force on February 1, 2009. Article 18.6 of the PTPA establishes an Environmental Affairs Council, which meets once a year unless otherwise agreed by the Parties to discuss the implementation of Chapter 18. Annex 18.3.4 to the PTPA establishes a Sub-Committee on Forest Sector Governance. The Sub-Committee is a specific forum for the Parties to exchange views and share information on any matter arising under the PTPA Annex on Forest Sector Governance. The ECA entered into force on August 23, 2009. Article III of the ECA establishes an Environmental Cooperation Commission and makes the Commission responsible for developing a Work Program. Article 18.6 of the PTPA and Article VI of the ECA provide that meetings of the Council and Commission respectively include a public session, unless the Parties otherwise agree. At its first meeting, the Sub-Committee on Forest Sector Governance committed to hold a public session after each Sub-Committee meeting.

The purpose of the meetings is to review implementation of: Chapter 18 (Environment) of the United States-Peru Trade Promotion Agreement (PTPA); the PTPA Annex on Forest Sector Governance (Annex 18.3.4); and the United States-Peru Environmental Cooperation Agreement (ECA).

The Department of State and USTR invite interested organizations and members of the public to attend the public session, and to submit written comments or suggestions regarding implementation of Chapter 18, Annex 18.3.4, and the ECA, and any issues that should be discussed at the meetings. If you would like to attend the public session, please notify Rachel Kastenberg and Laura Buffo at the email addresses listed under the heading **ADDRESSES**.

Please include your full name and any organization or group you represent.

In preparing comments, submitters are encouraged to refer to:

- Chapter 18 of the PTPA, including Annex 18.3.4, *https://ustr.gov/trade-agreements/free-trade-agreements/peru-tpa/final-text,*
- the Final Environmental Review of the PTPA, *https://ustr.gov/sites/default/files/uploads/factsheets/Trade%20Topics/environment/Environmental%20Review%20FINAL%2020071101.pdf,* and
- the ECA, *http://www.state.gov/e/oes/eqt/trade/peru/81638.htm.*

These and other useful documents are available at: *http://www.ustr.gov/trade-agreements/free-trade-agreements/peru-tpa* and at *http://www.state.gov/e/oes/eqt/trade/peru/index.htm.*

Robert Wing,

Acting Director, Office of Environmental Quality and Transboundary Issues, Department of State.

[FR Doc. 2018–02490 Filed 2–7–18; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Technical Corrections to the Harmonized Tariff Schedule of the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative is making technical modifications to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) to correct errors and omissions in the Annex to a Presidential Proclamation issued on January 23, 2018, concerning imports of large residential washers and covered parts.

DATES: The modifications and corrections are effective with respect to articles entered or withdrawn from warehouse for consumption, on or after the dates set forth in each item in the annex to this notice.

FOR FURTHER INFORMATION CONTACT: Victor Mroczka, Office of WTO and Multilateral Affairs, at *vmroczka@ustr.eop.gov* or 202–395–9450 or Juli Schwartz, Office of General Counsel, at *juli_c_schwartz@ustr.eop.gov* or 202–395–3150.

SUPPLEMENTARY INFORMATION:

1. Background

On January 23, 2018, Presidential Proclamation 9694 (83 FR 3553) established increases in duties and a tariff-rate quota known as the safeguard measure, pursuant to section 203 of the Trade Act of 1974, as amended (19 U.S.C. 2253), on imports of large residential washers and covered parts described in paragraph 5 of that Proclamation. Effective with respect to goods entered or withdrawn from warehouse for consumption, on or after 12:01 a.m., eastern standard time, on February 7, 2018, Proclamation 9694 modifies the HTS to provide for increased duties and a tariff-rate quota. The Annex to the Proclamation contained technical errors and omissions. This notice correct those errors and omissions to provide the intended tariff treatment. In particular, the notice corrects an error regarding the description of covered washer parts included in the application of the safeguard measure, as provided in paragraph 5 of Proclamation 9694.

2. Technical Corrections

Presidential Proclamation 6969 of January 27, 1997 (62 FR 4415), authorizes the United States Trade Representative to exercise the authority provided to the President under section 604 of the Trade Act (19 U.S.C. 2483) to embody rectifications, technical or conforming changes, or similar modifications in the HTS. Pursuant to this delegated authority, the United States Trade Representative is making the following changes to the HTS with respect to goods entered or withdrawn from warehouse for consumption, on or after the dates set forth below.

Annex

Effective with respect to articles entered or withdrawn from warehouse for consumption, on or after 12:01 a.m., eastern standard time, on February 7, 2018, U.S. Note 17(f) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified:

(1) By deleting the phrase '', the foregoing which incorporate, at a minimum, (A) a side wrapper, (B) a base and (C) a drive hub'' in subdivision (1);

(2) by deleting the word ''and'' at the end of subdivision (2);

(3) by renumbering subdivision (3) as subdivision (4); and

(4) by inserting the following new subdivision (3) in numerical order:

''(3) all assembled baskets provided for in subheading 8450.90.60 and designed for use in the washing machines defined in subdivision (c) of this note, which incorporate, at a minimum: (A) a side wrapper, (B) a base and (C) a drive hub; and''.

Jamieson Greer,

Chief of Staff, Office of the United States Trade Representative.

[FR Doc. 2018–02564 Filed 2–7–18; 8:45 am]

BILLING CODE 3190–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–93]

Petition for Exemption; Summary of Petition Received; Executive Air Charter of Boca Raton, Inc., dba Fair Wind Air Charter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 28, 2018.

ADDRESSES: Send comments identified by docket number FAA–2017–1049 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as

described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Nia Daniels, (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–1049.

Petitioner: Executive Air Charter of Boca Raton, Inc., dba Fair Wind Air Charter.

Section of 14 CFR Affected: 135.297.

Description of Relief Sought: Executive Air Charter of Boca Raton, Inc., dba Fair Wind Air Charter, is seeking partial relief from the requirements of § 135.297. This section requires a pilot serving as a pilot in command of an aircraft in a part 135 operation under instrument flight rules to pass an instrument proficiency check every 6 calendar months. The petitioner proposes to permit a Fair Wind Air Charter pilot in command, under specific conditions, to substitute one instrument proficiency check every 24 months with FAA-approved upset prevention and recovery training.

[FR Doc. 2018–02541 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2016–123]

Petition for Exemption; Summary of Petition Received; Minnesota Department of Natural Resources

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 28, 2018.

ADDRESSES: You may send comments identified by Docket Number FAA–2016–9416 using any of the following methods:

- *Government-wide rulemaking website:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility 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.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket website, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility 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: Nia Daniels, (202) 267–7626, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2016–9416.

Petitioner: Minnesota Department of Natural Resources.

Section of 14 CFR Affected: 135.503, 135.505, and 135.507.

Description of Relief Sought: The Minnesota Department of Natural Resources (MNDNR) petitions for its contracted vendors to have and maintain an FAA-approved Hazmat Will-Carry manual. Its vendors will be required to follow and carry this and other hazmat documents onboard the aircraft at all times, as well as, completing a training course.

[FR Doc. 2018–02540 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Renewal, Agricultural Aircraft Operator Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the submission of application FAA Form 8710–3 for the certification process. The information to be collected will be used to and/or is necessary to evaluate the operators request to become certified as an Agricultural Aircraft Operator.

DATES: Written comments should be submitted by April 9, 2018.

ADDRESSES: *Send comments to the FAA at the following address:* Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d)

ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone: 940–594–5913.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0049.

Title: Agricultural Aircraft Operator Certificate Application.

Form Numbers: FAA Form 8710–3.

Type of Review: This is a renewal of an information collection.

Background: Application for certificate issuance or amendment of a 14 CFR part 137 Agricultural Aircraft Operator Certificate. Application for a certificate issued under 14 CFR part 137 is made on a form, and in a manner, prescribed by the Administrator. The FAA form 8710–3 may be obtained from an FAA Flight Standards District Office and filed with the FAA Flight Standards District Office that has jurisdiction over the area in which the applicant's home base of operations is located.

The information collected includes: Type of application, Operators name/DBAs, telephone number, mailing address, physical address of the principal base of operations, Chief pilot/designee name, airman certificate grade and number, rotorcraft make/model registration numbers to be used and load combinations requested.

Respondents: 1755 active 14 CFR part 137 Certificate Holders.

Frequency: New applications as industry dictates, there is no renewal required for 14 CFR part 137 certificate holders, therefore, there is no recurring frequency.

Estimated Average Burden per Response: Approximately 30 minutes per application.

Estimated Total Annual Burden: New applications as industry dictates, there is no renewal required for 14 CFR part 137 certificate holders, therefore, there is no recurring burden.

Issued in Fort Worth, TX, on February 1, 2018.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2018–02557 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0037]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 19, 2017. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by March 12, 2018.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket No. FHWA- 2017–0037.

FOR FURTHER INFORMATION CONTACT: Dana Gigliotti, 202–366–1290, *dana.gigliotti@dot.gov,* Highway Safety Specialist, Office of Safety Programs, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Room E71–324, Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Inventory of State Compliance on Serious Injury Reporting Using the Model Minimum Uniform Crash Criteria 4th Edition

Type of Request: New information collection requirement.

Background

The Federal Highway Administration (FHWA) Office of Safety's mission is to exercise leadership throughout the highway community to make the Nation's roadways safer by developing, evaluating, and deploying life-saving countermeasures; advancing the use of scientific methods and data-driven decisions, fostering a safety culture, and promoting an integrated, multidisciplinary 4 E's (Engineering, Education, Enforcement, Education) approach to safety. The mission is carried out through the Highway Safety Improvement Program (HSIP), a data driven strategic approach to improving highway safety on all public roads that focuses on performance. The goal of the program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal lands.

In keeping with that mission, the United States Congress on June 29, 2012 passed the Moving Ahead for Progress in the 21st Century Act (MAP–21), which was signed into law (Pub. L. 112–141) on July 6, 2012 by President Barrack Obama and continued in the Fixing America's Surface Transportation Act (FAST Act). MAP–21 is a milestone for the U.S. economy and the Nation's surface transportation program as it transformed the policy and programmatic framework for investments to guide the system's growth and development and created a streamlined performance-based surface transportation program. The FHWA defines Transportation Performance Management (TPM) as a strategic approach that uses system information to make investment and policy decisions to achieve national performance goals.

MAP–21 required the Secretary of Transportation to establish performance measures for States to use to assess serious injuries and fatalities per vehicle mile traveled; and the number of serious injuries and fatalities, for the purposes of carrying out the HSIP under 23 U.S.C. 148. The HSIP is applicable to all public roads and therefore requires crash reporting by law enforcement agencies that have jurisdiction over them.

In defining performance measures for serious injuries, FHWA requires national reporting by States using a uniform definition for national reporting in this performance area, as required by MAP–21. An established standard for defining serious injuries as a result of motor vehicle related crashes has been developed in the 4th edition of the Model Minimum Uniform Crash Criteria (MMUCC). MMUCC represents a voluntary and collaborative effort to generate uniform crash data that are accurate, reliable and credible for data-

driven highway safety decisions within a State, between States, and at the national level. The MMUCC defines a serious injury resulting from traffic crashes as ''Suspected Serious Injury (A)'' whose attributes are: Any injury, other than fatal, which results in one or more of the following: Severe laceration resulting in exposure of underlying tissues, muscle, organs, or resulting in significant loss of blood; broken or distorted extremity (arm or leg); crush injuries; suspected skull, chest, or abdominal injury other than bruises or minor lacerations; significant burns (second and third degree burns over 10 percent or more of the body); unconsciousness when taken from the crash scene; or paralysis.

As part of the national requirement to report serious injuries using the MMUCC 4th Edition definition, the FHWA seeks to determine if States have adopted the MMUCC 4th edition definition, attribute and coding convention by the required April 15, 2019 date. Specifically, States will be considered compliant with the serious injury definition requirement if it: Maintains a statewide crash database capable of accurately aggregating the MMUCC 4th Edition injury status attribute for ''Suspected Serious Injury (A); Ensures the State crash database, data dictionary and crash report user manual employs the verbatim terminology and definitions for the MMUCC 4th Edition injury status attribute Suspected Serious Injury (A); Ensures the police crash form employs the verbatim MMUCC 4th Edition injury status attribute for Suspected Serious Injury (A); Ensures that the seven serious injury types specified in the Suspected Serious Injury (A) attribute are not included in any of the other attributes listed in the States' injury status data elements are MMUCC compliant.

The purpose of the information collection is to assess each States' ability to report serious injuries using the new Federal definition. This assessment will require consultation with the State database owner, State law enforcement agency and possibly county and municipal law enforcement agencies that don't use the State form.

Respondents: State, the District of Columbia, Puerto Rico, tribal and local traffic records management agencies and law enforcement. (75 total).

Frequency: One time collection.

Estimated Average Burden per Response: It will take approximately 30 minutes per participant.

Estimated Total Annual Burden Hours: Approximately 37 hours for a one-time collection.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on August 31, 2017.

Michael Howell,

Information Collection Officer.

Editorial Note: This Document was Received at the Office of the Federal Register on February 5, 2018.

[FR Doc. 2018–02525 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2018–0005]

Agency Information Collection Activities: Notice of Request for Renewal of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of a previously approved information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 9, 2018.

ADDRESSES: You may submit comments identified by DOT Docket ID Number FHWA 2018–0005 by any of the following methods:

Website: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Samantha Lubkin, 202–366–1575, Office of Bridges and Structures, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: National Bridge Inspection Program.

Background: This collection is necessary to meet legislative requirements of Title 23 United States Code section 144, and the Code of Federal Regulations, 23 Highways Part 650, Subpart C—National Bridge Inspection Standards which require States, Federal Agencies, and Tribal Governments to: (1) Perform and report inventory data from routine inspections, fracture critical inspections, and underwater inspections as appropriate for all highway bridges on public roads, and element level inspections for highway bridges on the National Highway System; (2) report costs associated with the replacement of structurally deficient bridges; and (3) follow up on critical findings. The bridge inspection and replacement cost information that is provided to the FHWA is on an annual basis. The critical findings information is periodically provided to the FHWA. The bridge information is used for multiple purposes, including: (1) The determination of the condition of the Nation's bridges which is included in a biennial report to Congress on the Status of the Nation's Bridges; (2) for various additional reports to Congress on Bridge Safety; (3) the data source for executing various sections of the Federal-aid program which involve highway bridges; (4) the data source for assessing the bridge penalty provisions of Title 23 United States Code section 119; (5) the data source for the evaluation of bridge performance measures established in Title 23 United States Code section 150; (6) for conducting oversight of the National Bridge Inspection Program at

the State, Federal agency, and Tribal level; and (7) for strategic national defense needs.

Respondents: 52 State highway agencies including the District of Columbia and Puerto Rico, Federal Agencies, and Tribal Governments. The number of inspections per respondent varies in accordance with the National Bridge Inspection Standards.

Estimated Average Burden per Response: The estimated average burden for each bridge inspection is 8 hours. The estimated average burden for each element level inspection is 25 minutes. The estimated average burden for each cost collection report is 90 hours. The estimated average burden for follow up on critical findings is 40 hours.

Estimated Total Annual Burden Hours: The annual burden hours associated with this renewal is 2,496,990 hours. This estimated figure is based on 307,500 annual instances for routine, fracture critical, and underwater inspections multiplied by 8 hours (2,460,000 hours); plus 72,552 annual element inspections multiplied by 25 minutes (30,230 hours); plus 90 hours for each cost report multiplied by 52 reports (4,680 hours); plus 40 hours for follow up on critical findings multiplied by 52 respondents (2,080 hours) for a combined annual burden of 2,496,990 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: February 2, 2018.

Michael Howell,

Information Collection Officer.

[FR Doc. 2018–02538 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2018–0006]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 9, 2018.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2018–0006 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg Wolf, 202–366–4655, Department of Transportation, Federal Highway Administration, Office of Program Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Emergency Relief Funding Applications.

OMB Control #: 2125–0525.

Background: Congress authorized in Title 23, United States Code, Section 125, a special program from the Highway Trust Fund for the repair or reconstruction of Federal-aid highways and roads on Federal lands which have suffered serious damage as a result of natural disasters or catastrophic failures from an external cause. This program, commonly referred to as the Emergency Relief or ER program, supplements the commitment of resources by States, their political subdivisions, or other Federal agencies to help pay for unusually heavy expenses resulting from extraordinary conditions. The applicability of the ER program to a natural disaster is based on the extent and intensity of the disaster. Damage to highways must be severe, occur over a wide area, and result in unusually high expenses to the highway agency. Examples of natural disasters include floods, hurricanes, earthquakes, tornadoes, tidal waves, severe storms, and landslides. Applicability of the ER program to a catastrophic failure due to an external cause is based on the criteria that the failure was not the result of an inherent flaw in the facility but was sudden, caused a disastrous impact on transportation services, and resulted in unusually high expenses to the highway agency. A bridge suddenly collapsing after being struck by a barge is an example of a catastrophic failure from an external cause. The ER program provides for repair and restoration of highway facilities to pre-disaster conditions. Restoration in kind is therefore the predominate type of repair expected to be accomplished with ER funds. Generally, all elements of the damaged highway within its cross section are eligible for ER funds. Roadway items that are eligible may include: pavement, shoulders, slopes and embankments, guardrail, signs and traffic control devices, bridges, culverts, bike and pedestrian paths, fencing, and retaining walls. Other eligible items may include: Engineering and right-of-way costs, debris removal, transportation system management strategies, administrative expenses, and equipment rental expenses. This information collection is needed for the FHWA to fulfill its statutory obligations regarding funding determinations for ER eligible damages following a disaster. The regulations covering the FHWA ER program are contained in 23 CFR part 668.

Respondents: 50 State Transportation Departments, the District of Columbia, Puerto Rico, Guam, American Samoa, Northern Mariana Islands, and the Virgin Islands.

Estimated Average Annual Burden: The respondents submit an estimated total of 30 applications each year. Each application requires an estimated average of 250 hours to complete.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 7,500 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: February 2, 2018.

Michael Howell,

Information Collection Officer.

[FR Doc. 2018–02526 Filed 2–7–18; 8:45 am]

BILLING CODE 4910–22–P

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3 CFR

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