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

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 744

[Docket No. 180112034–8034–01]

RIN 0694–AH48

#### Russian Sanctions: Addition of Certain Entities to the Entity List

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) with this final rule amends the Export Administration Regulations (EAR) by adding twenty-one entities to the Entity List. The twenty-one entities that are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. BIS is taking this action to ensure the efficacy of existing sanctions on the Russian Federation (Russia) for violating international law and fueling the conflict in eastern Ukraine. These entities will be listed on the Entity List under the destinations of Georgia, Poland and Russia.

**DATES:** This rule is effective February 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Email: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Entity List (Supplement No. 4 to Part 744 of the EAR) identifies entities and other persons reasonably believed to be involved in, or that pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy

of the United States. The EAR imposes additional licensing requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those persons or entities listed on the Entity List. The license review policy for each listed entity is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the **Federal Register** notice adding entities or other persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-user Review Committee (ERC) is composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy, and where appropriate, the Treasury. The ERC makes decisions to add an entry to the Entity List by majority vote and to remove or modify an entry by unanimous vote. The Departments represented on the ERC have approved these changes to the Entity List.

#### Entity List Additions

##### Additions to the Entity List

This rule adds twenty-one entities to the Entity List. These twenty-one entities are being added on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The twenty-one entities being added to the Entity List consist of one entity in Georgia, one entity in Poland and nineteen entities in Russia.

Under § 744.11(b) (Criteria for revising the Entity List) of the EAR, persons for whom there is reasonable cause to believe, based on specific and articulable facts, have been involved, are involved, or pose a significant risk of being or becoming involved, in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. The entities being added to the Entity List have been determined to be involved in activities that are contrary to the national security or foreign policy interests of the United States. Specifically, in this rule, BIS adds entities to the Entity List for

violating international law and fueling the conflict in eastern Ukraine. These additions ensure the efficacy of existing sanctions on Russia. The particular additions to the Entity List and related authorities are described below.

#### A. Entity Additions Consistent With Executive Order 13660

Four entities are added based on activities that are described in Executive Order 13660 (79 FR 13493), *Blocking Property of Certain Persons Contributing to the Situation in Ukraine*, issued on March 6, 2014. As described in the Executive Order, the actions and policies of persons who have asserted governmental authority in Crimea without the authorization of the Government of Ukraine undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

Executive Order 13660 blocks all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person (including any foreign branch) of any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be responsible for or complicit in, or to have engaged in, directly or indirectly, misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine, among other activities. Under Section 8 of the Order, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order.

The Department of the Treasury's Office of Foreign Assets Control (OFAC), pursuant to Executive Order 13660, has designated the following four entities as being within the scope of the Order: Doncoaltrade SP Z O O; Kompaniya Gaz-Alyans; Ugolnye Tekhnologii, OOO; and ZAO Vneshtorgservis. In conjunction with that designation, the Department of Commerce adds all four entities to the Entity List under this rule and imposes a license requirement for exports,

reexports, or transfers (in-country) of all items subject to the EAR to these blocked persons. This license requirement implements an appropriate measure within the authority of the EAR to carry out the provisions of Executive Order 13660.

*B. Entity Additions Consistent With Executive Order 13661*

Two entities are added based on activities that are described in Executive Order 13661 (79 FR 15533), *Blocking Property of Additional Persons Contributing to the Situation in Ukraine*, issued on March 16, 2014. This Order expanded the scope of the national emergency declared in Executive Order 13660 of March 6, 2014 (79 FR 13493). As described in Executive Order 13661, the actions and policies of the Government of the Russian Federation with respect to Ukraine—including the deployment of Russian military forces in the Crimea region of Ukraine—undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

Executive Order 13661 includes a directive that all property and interests in property that are in the United States, that hereafter come within the United States, or that are or thereafter come within the possession or control of any United States person (including any foreign branch) of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State to have either materially assisted, sponsored or provided financial, material or technological support for, or goods and services to or in support of a senior official of the government of the Russian Federation or operate in the defense or related materiel sector in Russia. Under Section 8 of the Order, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order.

The Department of the Treasury's OFAC, pursuant to Executive Order 13661, on behalf of the Secretary of Treasury, and in consultation with the Secretary of State, has designated the following two entities as being within the scope of the Order: Evro Polis Ltd. and Instar Lodzhistiks, OOO. BIS is also adding these entities to the Entity List

pursuant to Executive Order 13661. The two entities added to the Entity List under Executive Order 13661 meet the criteria of Section 1, subparagraph B of the Executive Order 13661 because they operate in Russia's arms or related materiel sector. With respect to these two entities, BIS imposes a license requirement for exports, reexports, or transfers (in-country) of all items subject to the EAR to these entities. This license requirement implements an appropriate measure within the authority of the EAR to carry out the provisions of Executive Order 13661.

*C. Entity Additions Consistent With Executive Order 13662*

Twelve entities are added to the Entity List based on activities that are described in Executive Order 13662 (79 FR 16169), *Blocking Property of Additional Persons Contributing to the Situation in Ukraine*, issued on March 20, 2014. This Order expanded the scope of the national emergency declared in Executive Order 13660 of March 6, 2014 and expanded in Executive Order 13661 of March 16, 2014.

Specifically, Executive Order 13662 expanded the scope to include sectors of the Russian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, such as financial services, energy, metals and mining, engineering, and defense and related materiel. Under Section 8 of the Order, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order.

The Department of the Treasury's OFAC, pursuant to Executive Order 13662, on behalf of the Secretary of the Treasury, and in consultation with the Secretary of State, has designated the following twelve entities as operating in the energy sector of Russia and owned or controlled by, or have acted or purported to act for or on behalf of, directly or indirectly, a person whose property and interests are blocked pursuant to the Order: Kaliningradnefteprodukt OOO; Kinef OOO; Kirishiavtoservis OOO; Lengiproneftekhim OOO; Media-Invest OOO; Novgorodnefteprodukt OOO; Pskovnefteprodukt OOO; SNGB AO; SO Tvernefteprodukt OOO; Sovkhoz Chervishevski PAO; Strakhovove Obshchestvo Surgutneftegaz OOO; and Surgutmebel OOO. In conjunction with that designation, BIS adds all twelve of the entities to the Entity List under this rule and imposes a license requirement for exports, reexports, or transfers (in-

country) of all items subject to the EAR to these blocked persons, when the exporter, reexporter or transferor knows that the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia, or is unable to determine whether the item will be used in such projects. This license requirement implements an appropriate measure within the authority of BIS to carry out the provisions of Executive Order 13662.

*D. Entity Additions Consistent With Executive Order 13685*

Three entities are added based on activities that are described in Executive Order 13685 (79 FR 77357), *Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to the Crimea Region of Ukraine*, issued on December 19, 2014. In order to take additional steps to address the Russian occupation of the Crimea region of Ukraine with respect to the national emergency declared in Executive Order 13660 of March 6, 2014, and expanded in Executive Order 13661 of March 16, 2014, and Executive Order 13662 of March 20, 2014, certain additional prohibitions with respect to the Crimea region of Ukraine were imposed. In particular, Executive Order 13685 prohibits the export, reexport, sale or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods, services, or technology to the Crimea region of Ukraine. Under Section 10 of the Order, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order.

The Department of the Treasury's OFAC, pursuant to Executive Order 13685, on behalf of the Secretary of the Treasury and in consultation with the Secretary of State, has designated the following three entities as operating in the Crimea region of Ukraine: Limited Liability Company Foreign Economic Association Technopomexport; PJSC Power Machines; and VAD, AO. In conjunction with these designations, BIS adds all three of these entities to the Entity List under this rule and imposes a license requirement for exports, reexports, or transfers (in-country) of all items subject to the EAR to these blocked persons. This license requirement implements an appropriate measure within the authority of the EAR to carry out the provisions of Executive Order 13685.



For the twenty-one entities added to the Entity List based on activities that are described in Executive Order 13660, 13661, 13662 or 13685, BIS imposes a license requirement for all items subject to the EAR and a license review policy of presumption of denial. The license requirements apply to any transaction in which items subject to the EAR are to be exported, reexported, or transferred (in-country) to any of the entities or in which such entities act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the entities being added to the Entity List in this rule.

The acronym “a.k.a.” (also known as) is used in entries on the Entity List to help exporters, reexporters and transferors to better identify listed persons on the Entity List.

This final rule adds the following twenty-one entities to the Entity List:

#### Georgia

- (1) *ZAO Vneshtorgservis*,  
1 Geroyev Street, Tskhinval, South  
Ossetia, Georgia.

#### Poland

- (1) *Doncoaltrade SP Z O O*,  
Ul. Barbary 21, Katowice, woj.  
Slaskie, pow. M. Katowice 40-053,  
Poland.

#### Russia

- (1) *Evro Polis Ltd.*, a.k.a., the following two aliases:  
—Evro Polis, OOO; and  
—Obshchestvo S Ogranichennoi Otvetstvennostyu Evro Polis.  
d. 1A pom. 9.1A, Shosse Ilinskoe, Krasnogorsk, Krasnogorski Raion, Moskovskaya Obl. 143409, Russia;
- (2) *Instar Lodzhistsiks, OOO*, a.k.a., the following one alias:  
—Instar Logistics.  
d. 20 str., 7 ofis 102V, ul. Elektrozavodskaya, Moscow 1072023, Russia;
- (3) *Kaliningradnefteprodukt OOO*, a.k.a., the following three aliases:  
—Kaliningradnefteprodukt LLC;  
—Limited Liability Company Kaliningradnefteproduct; and  
—LLC Kaliningradnefteproduct.  
22-b Komsomolskaya Ulitsa, Central District, Kaliningrad, Russia;
- (4) *Kinef OOO*, a.k.a., the following three aliases:  
—Kinef, LLC;  
—Limited Liability Company Production Association Kirishinefteorgsintez; and  
—LLC Kinef.  
d. 1 Shosse Entuziastov, Kirishi, Leningradskaya Oblast 187110,

- Russia;
- (5) *Kirishiavtoservis OOO*, a.k.a., the following two aliases:  
—Limited Liability Company Kirishiavtoservis; and  
—LLC Kirishiavtoservis.  
lit A, 12 Smolenskaya Ulitsa, St. Petersburg 196084;
- (6) *Kompaniya Gaz-Alyans, OOO*, a.k.a., the following three aliases:  
—Company Gaz-Alliance LLC;  
—Kompaniya Gaz-Alyans, OOO; and  
—Obshchestvo S Ogranichennoi Otvetstvennostyu Kompaniya Gaz-Alyans.  
15 Ul., Svobody, Nizhni Novgorod, Nizhegorodskaya Obl. 603003, Russia;
- (7) *Lengiproneftekhim OOO*, a.k.a., the following three aliases:  
—Institut Po Proektirovaniyu Predpriyaty Neftepererabatyvayushey I Neftekhimicheskoy Promyshlennosti, Limited Liability Company;  
—Limited Liability Company Oil Refining and Petrochemical Facilities Design Institute; and  
—LLC Lengiproneftekhim.  
d. 94, Obvodnogo Kanala, nab, St. Petersburg 196084, Russia;
- (8) *Limited Liability Company Foreign Economic Association Technopromexport*, a.k.a., the following three aliases:  
—Obshchestvo S Ogranichennoi Otvetstvennostyu Vneshneekonomicheskoe Obedinenie Tekhnopromeksport;  
—OOO VO Technopromexport; and  
—OOO VO TPE.  
Novyi Arbat Str. 15, Building 2, Moscow 119019, Russia;
- (9) *Media-Invest OOO*, a.k.a., the following two aliases:  
—Limited Liability Company Media-Invest; and  
—LLC Media-Invest.  
17 Bld 1 Zubovsky Blvd., Moscow 119847, Russia;
- (10) *Novgorodnefteprodukt OOO*, a.k.a., the following three aliases:  
—Limited Liability Company Novgorodnefteproduct;  
—LLC Novgorodnefteproduct; and  
—Novgorodnefteprodukt LLC.  
d. 20 Germana Ulitsa, Veliky Novgorod, Novgorodskaya Oblast 173002, Russia;
- (11) *PJSC Power Machines*, a.k.a., the following three aliases:  
—Open Joint Stock Company Power Machines—ZTL, LMZ, Electrosila, Energomachexport;  
—Publichnoe Aktsionernoe Obshchestvo Silovye Mashiny—ZTL, LMZ, Elektrosila, Energomasheksport; and

- Silovye Mashiny, PAO.  
3A Vatutina St., St. Petersburg 195009, Russia;
- (12) *Pskovnefteprodukt OOO*, a.k.a., the following two aliases:  
—Limited Liability Company Marketing Association Pskovnefteproduct; and  
—LLC Pskovnefteproduct.  
4 Oktyabrsky Prospekt, Pskov 180000, Russia;
- (13) *SNGB AO*, a.k.a., the following three aliases:  
—Closed Joint Stock Company Surgutneftegasbank (ZAO SNGB);  
—Joint Stock Company Surgutneftegasbank; and  
—JSC BANK SNGB.  
19 Kukuyvitskogo Street, Surgut 628400, Russia;
- (14) *SO Tvernefteprodukt OOO*, a.k.a., the following two aliases:  
—Limited Liability Company Marketing Association Tvernefteproduct; and  
—LLC MA Tvernefteproduct.  
6 Novotorzhskaya Ulitsa, Tver, Russia;
- (15) *Sovkhoz Chervishevski PAO*, a.k.a., the following three aliases:  
—OJSC Sovkhoz Chervishevsky;  
—Open Joint Stock Company Sovkhoz Chervishevsky; and  
—Sovkhoz Chervishevsky, JSC.  
d. 81 Sovetskaya Ulitsa, S. Chervichevsky, Tyumensky Rayon, Tyumensky Oblast 625519, Russia;
- (16) *Strakhovove Obshchestvo Surgutneftegaz OOO*, a.k.a., the following three aliases:  
—Insurance Company Surgutneftegas, LLC;  
—Limited Liability Company Insurance Company Surgutneftegas; and  
—LLC Insurance Company Surgutneftegas.  
9/1 Lermontova Ulitsa, Surgut 628418, Russia;
- (17) *Surgutmebel OOO*, a.k.a., the following four aliases:  
—Limited Liability Company Syrgutmebel;  
—LLC Surgutmebel;  
—LLC Syrgutmebel; and  
—Surgutmebel, LLC.  
Vostochnaya Industrial 1 Territory 2, Poselok Barovo, Surgutsky District, Yugra, Khanty-Mansiysky Autonomos Okrug, Russia;
- (18) *Ugolnye Tekhnologii, OOO*, a.k.a., the following two aliases:  
—Coal Technologies; and  
—Obshchestvo S Ogranichennoi Otvetstvennostyu “Ugolnye Tekhnologii”.  
d. 25 ofis 13, 14, per. Avtomobilny, Rostov-on-Don, Rostovskaya Oblast 344038, Russia;

(19) *VAD, AO*, a.k.a, the following seven aliases:

- Aktionernoe Obshchestvo VAD;
  - AO, VAD;
  - CJSC VAD;
  - Joint Stock Company VAD;
  - JSC VAD;
  - ZAO VAD; and
  - High-Quality Highways.
- 133, ul. Chernyshevskogo, Vologda, Vologodskaya Obl 160019, Russia; and 122 Grazhdanskiy Prospect, Suite 5, Liter A, St. Petersburg 195267, Russia.

#### Export Administration Act of 1979

Although the Export Administration Act of 1979 expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 15, 2017, 82 FR 39005 (August 16, 2017), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act of 1979, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

#### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be 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.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501

*et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission.

Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to [Jasmeet.K.Seehra@omb.eop.gov](mailto:Jasmeet.K.Seehra@omb.eop.gov), or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implementation of this rule is necessary to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the entities being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, the twenty-one entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the Entity List and would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List

once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

#### List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

For the reasons stated in the preamble, the Bureau of Industry and Security amends part 744 of the Export Administration Regulations (15 CFR parts 730–774) as follows:

#### PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 15, 2017, 82 FR 39005 (August 16, 2017); Notice of September 18, 2017, 82 FR 43825 (September 19, 2017); Notice of November 6, 2017, 82 FR 51971 (November 8, 2017); Notice of January 17, 2018, 83 FR 2731 (January 18, 2018).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By adding, in alphabetical order, a heading for Georgia and one Georgian entity;

■ b. By adding, in alphabetical order, a heading for Poland and one Polish entity; and

■ c. By adding under the destination of Russia, in alphabetical order, nineteen Russian entities.

The additions read as follows:

#### Supplement No. 4 to Part 744—Entity List

\* \* \* \* \*

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
GEORGIA .....	ZAO Vneshtorgservis, 1 Geroyev Street, Tskhinval, South Ossetia, Georgia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
POLAND .....	Doncoaltrade SP Z O O, Ul. Barbary 21, Katowice, woj. Slaskie, pow. M. Katowice 40–053, Poland.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
RUSSIA .....	Evro Polis Ltd., a.k.a., the following two aliases: —Evro Polis, OOO; <i>and</i> —Obshchestvo S Ogranichennoi Otvetstvennostyu Evro Polis. d. 1A pom. 9.1A, Shosse Ilinskoe, Krasnogorsk, Krasnogorski Raion, Moskovskaya Obl. 143409, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
	Instar Lodzhistiks, OOO, a.k.a., the following one alias: —Instar Logistics. d. 20 str., 7 ofis 102V, ul. Elektrozavodskaya, Moscow 1072023, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
	Kaliningradnefteprodukt OOO, a.k.a., the following three aliases: —Kaliningradnefteprodukt LLC; —Limited Liability Company Kaliningradnefteproduct; <i>and</i> —LLC Kaliningradnefteproduct. 22-b Komsomolskaya Ulitsa, Central District, Kaliningrad, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
	Kinef OOO, a.k.a., the following three aliases: —Kinef, LLC; —Limited Liability Company Production Association Kirishinefteorgsintez; <i>and</i> —LLC Kinef. d. 1 Shosse Entuziastov, Kirishi, Leningradskaya Oblast 187110, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
	Kirishiavtoservis OOO, a.k.a., the following two aliases: —Limited Liability Company Kirishiavtoservis; <i>and</i> —LLC Kirishiavtoservis. lit A, 12 Smolenskaya Ulitsa, St. Petersburg 196084.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*
	Kompaniya Gaz-Alyans, OOO, a.k.a., the following three aliases: —Company Gaz-Alliance LLC; —Kompaniya Gaz-Alyans, OOO; <i>and</i> —Obshchestvo S Ogranichennoi Otvetstvennostyu Kompaniya Gaz-Alyans. 15 Ul., Svobody, Nizhni Novgorod, Nizhegorodskaya Obl. 603003, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
*	*	*	*	*

Country	Entity	License requirement	License review policy	Federal Register citation
	Lengiproneftekhim OOO, a.k.a., the following three aliases: —Institut Po Proektirovaniyu Predpriyat Neftepererabatyvayuschey I Neftekhimicheskoy Promyshlennosti, Limited Liability Company; —Limited Liability Company Oil Refining and Petrochemical Facilities Design Institute; <i>and</i> —LLC Lengiproneftekhim. d. 94, Obvodnogo Kanala, nab, St. Petersburg 196084, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Limited Liability Company Foreign Economic Association Technopromexport, a.k.a., the following three aliases: —Obschestvo S Ogranichennoi Otvetstvennostyu Vneshneekonomicheskoe Obedinenie Tekhnopromeksport; —OOO VO Technopromexport; <i>and</i> —OOO VO TPE. Novyi Arbat Str. 15, Building 2, Moscow 119019, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Media-Invest OOO, a.k.a., the following two aliases: —Limited Liability Company Media-Invest; <i>and</i> —LLC Media-Invest. 17 Bld 1 Zubovsky Blvd, Moscow 119847, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Novgorodnefteprodukt OOO, a.k.a., the following three aliases: —Limited Liability Company Novgorodnefteprodukt; —LLC Novgorodnefteprodukt; <i>and</i> —Novgorodnefteprodukt LLC . d. 20 Germana Ulitsa, Veliky Novgorod, Novgorodskaya Oblast 173002, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	PJSC Power Machines, a.k.a., the following three aliases: —Open Joint Stock Company Power Machines—ZTL, LMZ, Electrosila, Energomachexport; —Publichnoe Aktsionernoe Obshchestvo Silovye Mashiny—ZTL, LMZ, Elektrosila, Energomasheksport; <i>and</i> —Silovye Mashiny, PAO. 3A Vatutina St., St. Petersburg 195009, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Pskovnefteprodukt OOO, a.k.a., the following two aliases: —Limited Liability Company Marketing Association Pskovnefteprodukt; <i>and</i> —LLC Pskovnefteprodukt. 4 Oktyabrsky Prospekt, Pskov 180000, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	SNGB AO, a.k.a., the following three aliases: —Closed Joint Stock Company Surgutneftegasbank (ZAO SNGB); —Joint Stock Company Surgutneftegasbank; <i>and</i> —JSC BANK SNGB.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.

Country	Entity	License requirement	License review policy	Federal Register citation
	19 Kukuyvitskogo Street, Surgut 628400, Russia. SO Tvernefteprodukt OOO, a.k.a., the following two aliases: —Limited Liability Company Marketing Association Tvernefteprodukt; <i>and</i> —LLC MA Tvernefteprodukt. 6 Novotorzhskaya Ulitsa, Tver, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Sovkhoz Chervishevski PAO, a.k.a., the following three aliases: —OJSC Sovkhoz Chervishevsky; —Open Joint Stock Company Sovkhoz Chervishevsky; <i>and</i> —Sovkhoz Chervishevsky, JSC. d. 81 Sovetskaya Ulitsa, S. Chervichevsky, Tyumensky Rayon, Tyumensky Oblast 625519, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Strakhovove Obshchestvo Surgutneftegaz OOO, a.k.a., the fol- lowing three aliases: —Insurance Company Surgutneftegas, LLC; —Limited Liability Company Insurance Company Surgutneftegas; <i>and</i> —LLC Insurance Company Surgutneftegas. 9/1 Lermontova Ulitsa, Surgut 628418, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Surgutmebel OOO, a.k.a., the following four aliases: —Limited Liability Company Syrgutmebel; —LLC Surgutmebel; —LLC Syrgutmebel; <i>and</i> —Surgutmebel, LLC. Vostochnaya Industrial 1 Territory 2, Poselok Barsovo, Surgutsky District, Yugra, Khanty-Mansiysky Autonomos Okrug, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	Ugolnye Tekhnologii, OOO, a.k.a., the following two aliases: —Coal Technologies; <i>and</i> —Obshchestvo S Ogranichennoi Otvetsvennostyu "Ugolnye Tekhnologii". d. 25 ofis 13, 14, per. Avtomobilny, Rostov-on-Don, Rostovskaya Oblast 344038, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.
	VAD, AO, a.k.a, the following seven aliases: —Aktzionernoe Obshchestvo VAD; —AO, VAD; —CJSC VAD; —Joint Stock Company VAD; —JSC VAD; —ZAO VAD; <i>and</i> —High-Quality Highways. 133, ul. Chernyshevskogo, Vologda, Vologodskaya Obl 160019, Russia; <i>and</i> 122 Grazhdanskiy Prospekt, Suite 5, Liter A, St. Petersburg 195267, Russia. * * *	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial .....	83 FR [INSERT FR PAGE NUMBER] 2/16/2018.

Dated: February 12, 2018.

**Richard E. Ashooh,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2018-03234 Filed 2-15-18; 8:45 am]

**BILLING CODE 3510-33-P**

## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Part 4022**

#### **Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in March 2018. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

**DATES:** Effective March 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** Daniel S. Liebman (*liebman.daniel@pbgc.gov*), Acting Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202-326-4400 ext. 6510. (TTY/ASCII users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400, ext. 6510.)

**SUPPLEMENTARY INFORMATION:** PBGC's regulation on Benefits Payable in

Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminated single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's website (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in appendix B to part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for March 2018.<sup>1</sup>

The March 2018 interest assumptions under the benefit payments regulation will be 0.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for February 2018, these assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that

the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during March 2018, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

#### **List of Subjects in 29 CFR Part 4022**

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

#### **PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS**

■ 1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 293 is added at the end of the table to read as follows:

#### **Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
* 293	* 3-1-18	* 4-1-18	* 0.75	* 4.00	* 4.00	* 4.00	* 7	* 8	

■ 3. In appendix C to part 4022, Rate Set 293 is added at the end of the table to read as follows:

<sup>1</sup> Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing

benefits under terminating covered single-employer plans for purposes of allocation of assets under

ERISA section 4044. Those assumptions are updated quarterly.

## Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
293	3–1–18	4–1–18	0.75	4.00	4.00	4.00	7	8	

Issued in Washington, DC, by  
**Daniel S. Liebman,**  
*Acting Assistant General Counsel for  
 Regulatory Affairs, Pension Benefit Guaranty  
 Corporation.*

[FR Doc. 2018–03227 Filed 2–15–18; 8:45 am]

BILLING CODE 7709–02–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket Number USCG–2017–1100]

RIN 1625–AA08

### Special Local Regulation; Pamlico River, Washington, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation on the navigable waters of the Pamlico River near Washington, North Carolina. This special local regulation is intended to restrict vessel traffic on the Pamlico River during a high-speed boat race. This action is intended to restrict vessel traffic movement in the regulated area to protect participants, spectators, and property from the hazards posed by high-speed boat races. Entry of vessels or persons into this special local regulation is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative.

**DATES:** This rule is effective from 7 a.m. on February 23, 2018, through noon on February 24, 2018, with an alternate date of February 25, 2018 from 7 a.m. through noon.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–1100 in the “SEARCH” box and click “SEARCH.” Click on Open Docket

Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone: 910–772–2221, email: [Matthew.I.Tyson@uscg.mil](mailto:Matthew.I.Tyson@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### I. Table of Abbreviations

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

#### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard was notified about the race on December 1, 2017 and there were multiple revisions over the following three weeks. It is impracticable and contrary to the public interest to delay this action. Waiting for a comment period to run would inhibit the Coast Guard’s ability to protect the public and participants from the dangers associated with the high-speed boat race scheduled to start on February 23, 2018.

For the same reasons, the Coast Guard finds good cause to make this rule effective less than 30 days after publication, under 5 U.S.C. 553(d)(3).

Immediate implementation is required to protect the public and participants from the dangers associated with these activities.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The COTP North Carolina has determined that potential hazards associated with the Iconic Marine Group Kilo Race scheduled on February 23 and February 24, 2018, with an alternate date February 25, 2018, is a safety concern for mariners during the high-speed boat race on the Pamlico River near Washington, North Carolina. This rule is necessary to protect persons and vessels from the potential hazards associated with the high-speed boat race.

### IV. Discussion of the Rule

This rule establishes a special local regulation on a portion of the Pamlico River on February 23 and February 24, 2018, with an alternate date of February 25, 2018, in the event that weather or other factors do not allow the race to commence on the primary dates. The special local regulation will be enforced for approximately one hour between the hours of 7 a.m. and noon, when environmental conditions meet the requirements for the race. The exact times of enforcement will be broadcast locally over VHF–FM marine radio. The special local regulation will include all navigable waters of the Pamlico River near Washington, North Carolina, from approximate positions: Latitude 35°28’42” N, longitude 076°59’14” W, then northwest to latitude 35°29’53” N, longitude 077°01’18” W, then northwest along the shoreline to latitude 35°32’29” N, longitude 077°03’47” W, then northwest to latitude 35°32’34” N, longitude 077°03’56” W, then northeast to latitude 35°32’42” N, longitude 077°03’50” W, then southeast along the shoreline to latitude 35°29’06” N, longitude 076°58’48” W, then southwest back to the point of origin, a length of approximately six miles. The duration of this special local regulation is

intended to protect participants, spectators, and property on the navigable waters of the Pamlico River during the high-speed boat race. This is a timed race and only one boat will race at a time. No vessel or person will be permitted to enter the special local regulation unless specifically authorized by the COTP North Carolina or a designated representative. Spectators may request to be allowed inside the special local regulation. The spectator area will be marked with temporary buoys and will be at least 100 yards from the race course. Vessels may request permission to pass through the special local regulation between race heats.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the proposed special local regulation. Vessel traffic will not be allowed to enter or transit a portion of the Pamlico River on February 23 and February 24, 2018 with an alternate date of February 25, 2018 for approximately one hour on each day. The Coast Guard will issue a Local Notice to Mariners and transmit a Broadcast Notice to Mariners via VHF-FM marine channel 16 regarding the special local regulation. The specific enforcement times will be broadcast locally each day prior to the race on VHF-FM marine channel 16. This portion of the Pamlico River has been determined to be a low traffic area during this time of the year. This rule allows vessels to request permission to enter as a spectator or pass through the special local regulation.

### B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting approximately one hour on three consecutive days that prohibits entry into a portion of the Pamlico River. It is categorically excluded from further review under paragraph L60 (a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the **FOR FURTHER**



**INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—SPECIAL LOCAL REGULATIONS/REGATTAS & MARINE PARADES

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

■ 2. Add § 100.35T05–1100 to read as follows:

#### § 100.35T05–1100 Special Local Regulation, Pamlico River, Washington, NC.

(a) *Location.* The following area is a special local regulation: All navigable waters of the Pamlico River near Washington, North Carolina, from approximate positions: Latitude 35°28'42" N, longitude 076°59'14" W, then northwest to latitude 35°29'53" N, longitude 077°01'18" W, then northwest along the shoreline to latitude 35°32'29" N, longitude 077°03'47" W, then northwest to latitude 35°32'34" N, longitude 077°03'56" W, then northeast to latitude 35°32'42" N, longitude 077°03'50" W, then southeast along the shoreline to latitude 35°29'06" N, longitude 076°58'48" W, then southwest back to the point of origin, a length of approximately 6 miles.

(b) *Definitions.* As used in this section—

*Captain of the Port* means the Commander, Sector North Carolina.

*Coast Guard Patrol Commander* means a Coast Guard commissioned, warrant, or petty officer designated by the COTP North Carolina for the enforcement of the special local regulation.

*Official Patrol* means any vessel assigned by the COTP North Carolina with a commissioned, warrant, or petty officer on board and displaying the Coast Guard ensign.

*Participants* means persons and vessels involved in the high-speed boat race.

*Spectators* means persons and vessels observing the high-speed boat race.

(c) *Regulations.* (1) The general regulations governing special local regulations in § 100.501(c) apply to the area described in paragraph (a) of this section.

(2) With the exception of participants and spectators, entry into or remaining in this special local regulation is prohibited unless authorized by the COTP North Carolina or the COTP North Carolina's Patrol Commander. All other vessels must depart the special local regulation immediately.

(3) To request permission to remain in, enter, or transit through the special local regulation, contact the COTP North Carolina or the COTP North Carolina's Patrol Commander through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910-343-3882 or on VHF-FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the special local regulation by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced on February 23 and February 24, 2018, with an alternate date of February 25, 2018.

(f) *Public notification.* The Coast Guard will notify the public of the specific enforcement times each day prior to the race via VHF-FM marine channel 16.

Dated: February 2, 2018

**Bion B. Stewart,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

[FR Doc. 2018-03268 Filed 2-15-18; 8:45 am]

**BILLING CODE 9110-04-P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Parts 100, 117, 147, and 165

[USCG-2018-0137]

#### 2017 Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of expired temporary rules issued.

**SUMMARY:** This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for

which timely publication in the **Federal Register** was not possible.

**DATES:** This document lists temporary Coast Guard rules that became effective, primarily between October 2017 to December 2017, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

**ADDRESSES:** Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this document contact Yeoman First Class David Hager, Office of Regulations and Administrative Law, telephone (202) 372-3862.

**SUPPLEMENTARY INFORMATION:** Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard

officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation

areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between October 2017 to December 2017 unless otherwise indicated. To view copies of these rules, visit [www.regulations.gov](http://www.regulations.gov) and search by the docket number indicated in the following table.

Docket No.	Type	Location	Effective date
USCG-2017-0887	Drawbridges (Part 117)	Hempstead, NY	10/1/2017
USCG-2017-0938	Safety Zones (Parts 147 and 165)	Cincinnati, OH	10/1/2017
USCG-2017-0777	Safety Zones (Parts 147 and 165)	Charleston, SC	10/1/2017
USCG-2017-0862	Special Local Regulations (Part 100)	San Francisco Bay	10/5/2017
USCG-2017-0970	Safety Zones (Parts 147 and 165)	Paducah, KY	10/5/2017
USCG-2017-0974	Safety Zones (Parts 147 and 165)	New Orleans, LA	10/6/2017
USCG-2017-0871	Safety Zones (Parts 147 and 165)	Milwaukee, WI	10/7/2017
USCG-2017-0869	Safety Zones (Parts 147 and 165)	San Francisco Bay	10/7/2017
USCG-2017-0921	Regulated Navigation Areas (Part 165)	Puerto Rico	10/7/2017
USCG-2017-0883	Safety Zones (Parts 147 and 165)	San Francisco, CA	10/8/2017
USCG-2017-0982	Safety Zones (Parts 147 and 165)	Oahu, HI	10/11/2017
USCG-2017-0920	Special Local Regulations (Part 100)	Little Rock, AR	10/13/2017
USCG-2017-0881	Safety Zones (Parts 147 and 165)	Rio Vista, CA	10/14/2017
USCG-2017-0872	Safety Zones (Parts 147 and 165)	Richmond, CA	10/14/2017
USCG-2017-0987	Safety Zones (Parts 147 and 165)	Buffalo, NY	10/16/2017
USCG-2017-0981	Safety Zones (Parts 147 and 165)	Marmet, WV	10/17/2017
USCG-2011-0228	Safety Zones (Parts 147 and 165)	Chicago, IL	10/20/2017
USCG-2017-0922	Safety Zones (Parts 147 and 165)	San Francisco, CA	10/21/2017
USCG-2017-0980	Safety Zones (Parts 147 and 165)	San Francisco, CA	10/22/2017
USCG-2017-0026	Safety Zones (Parts 147 and 165)	Chicago, IL	10/26/2017
USCG-2017-0042	Safety Zones (Parts 147 and 165)	Crescent City, CA	10/27/2017
USCG-2017-1022	Safety Zones (Parts 147 and 165)	Gulfport, MS	10/29/2017
USCG-2017-1030	Security Zones (Part 165)	Oahu, HI	11/3/2017
USCG-2017-1013	Safety Zones (Parts 147 and 165)	San Francisco, CA	11/5/2017
USCG-2016-0345	Safety Zones (Parts 147 and 165)	Chicago, IL	11/7/2017
USCG-2017-0730	Special Local Regulations (Part 100)	Tuscaloosa, AL	11/11/2017
USCG-2017-1037	Security Zones (Part 165)	Palm Beach, FL	11/21/2017
USCG-2017-1052	Safety Zones (Parts 147 and 165)	Chattanooga, TN	11/24/2017
USCG-2017-1041	Drawbridges (Part 117)	Baltimore, MD	11/28/2017
USCG-2017-0996	Safety Zones (Parts 147 and 165)	Palm Beach, FL	11/30/2017
USCG-2017-1059	Safety Zones (Parts 147 and 165)	Pascagoula, MS	12/4/2017
USCG-2017-1097	Safety Zones (Parts 147 and 165)	Paducah, KY	12/7/2017
USCG-2017-1082	Security Zones (Part 165)	Palm Beach, FL	12/8/2017
USCG-2017-1045	Safety Zones (Parts 147 and 165)	Mobile, AL	12/8/2017
USCG-2017-1043	Security Zones (Part 165)	Pensacola, FL	12/8/2017
USCG-2017-1036	Safety Zones (Parts 147 and 165)	Charleston, WV	12/9/2017
USCG-2017-0997	Special Local Regulations (Part 100)	Panama City, FL	12/9/2017
USCG-2017-1070	Safety Zones (Parts 147 and 165)	Sausalito, CA	12/9/2017
USCG-2017-1021	Safety Zones (Parts 147 and 165)	Belpre, OH	12/12/2017
USCG-2017-1085	Special Local Regulations (Part 100)	St. Thomas, USVI	12/15/2017
USCG-2017-1104	Safety Zones (Parts 147 and 165)	Memphis, TN	12/15/2017
USCG-2017-1092	Security Zones (Part 165)	Tacoma, Washington	12/26/2017
USCG-2017-1089	Safety Zones (Parts 147 and 165)	Oahu, HI	12/29/2017
USCG-2017-1118	Safety Zones (Parts 147 and 165)	Coal Bluff, PA	12/29/2017
USCG-2017-1091	Safety Zones (Parts 147 and 165)	San Francisco, CA	12/30/2017
USCG-2017-1090	Safety Zones (Parts 147 and 165)	Sacramento, CA	12/31/2017

Dated: February 13, 2018.

**Katia Kroutil,**

*Office Chief, Office of Regulations and Administrative Law.*

[FR Doc. 2018-03273 Filed 2-15-18; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket Number USCG–2017–0079]****RIN 1625–AA87****Security Zone; Delaware River, Schuylkill River; Philadelphia, PA****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent security zone within portions of the Delaware River, and Schuylkill River, for the protection of Very Important Persons (VIP) who arrive or depart from Philadelphia International Airport, Philadelphia, PA. This permanent rule will allow for the expedited enforcement of the security zone when short notice is received by the Coast Guard regarding such travel arrangements. The security zone will be enforced only during times of a protected VIP transit to or from the airport and will restrict vessel traffic while the zone is being enforced. Only vessels or people specifically authorized by the Captain of the Port, Delaware Bay, or designated representative, may enter or remain in the regulated area.

**DATES:** This rule is effective March 19, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0079 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email Petty Officer Amanda Boone, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215) 271–4814, email [Amanda.N.Boone@uscg.mil](mailto:Amanda.N.Boone@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

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

**II. Background Information and Regulatory History**

On occasion, protected VIPs will arrive or depart Philadelphia

International Airport, Philadelphia, PA, which is located within the Coast Guard Sector Delaware Bay Captain of the Port (COTP) zone. These visits require the implementation of heightened security measures for protection of VIPs who may travel over or on portions of the Delaware River or Schuylkill River on their route to or from the airport. The purpose of this rulemaking is to protect the VIP and the public from destruction, loss, or injury from sabotage, subversive acts, or other malicious or potential terrorist acts. This rule will allow expedited enforcement of the security zone for protected VIPs traveling to or from Philadelphia International Airport when short notice is provided to the COTP.

On May 15, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Security Zone; Delaware River, Schuylkill River, Philadelphia, PA” (82 FR 22301). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this proposed permanent security zone. During the comment period that ended June 14, 2017, we received one comment.

**III. Legal Authority and Need for Rule**

The Coast Guard is establishing this rulemaking under authority in 33 U.S.C. 1231. The purpose of this rulemaking is to protect VIPs and the public from destruction, loss, or injury from sabotage, subversive acts, or other malicious or potential terrorist acts.

**IV. Discussion of Comments, Changes, and the Rule****A. Discussion of Comments**

As noted above, we received one comment on our NPRM published May 15, 2017. The comment had seven questions regarding establishment of the permanent security zone.

1. *Necessity of zone.* The commenter asked about the relevance of the security zone and requested that the Coast Guard provide assurance that the implementation of the security zone is necessary.

*Response:* The Coast Guard has historically implemented security zones of this general size in this general location when notified by the U.S. Secret Service that a protected VIP will be transiting to or from the Philadelphia International Airport. Often, there has been little advanced notice to the Coast Guard associated with these requests. The security zone itself is a necessary tool to protect traveling VIPs and the public from destruction, loss, or injury from sabotage, subversive acts, or other

malicious or potential terrorist acts. No specific threats have been identified; however, the airport’s proximity to the Delaware River and Schuylkill River expose it to some waterborne risks. Although permanent, the security zone will only be enforced during times a VIP is arriving or departing from the Philadelphia International Airport. The security zone can only be used for this specific purpose. Any further restrictions or events that may require a security zone, not related to the movement of VIPs to or from the airport, will be conducted through separate rulemaking action.

In the past, similar temporary security zones in this general area have been established in order to provide protection for traveling VIPs. The creation of security zones in this manner, by necessity, has limited opportunity to the public for advanced notification of establishment and enforcement procedures and intentions. While this rule does not provide the exact times and dates that the security zone will be enforced, the resulting public awareness better serves the maritime community and industry operating on this portion of the Delaware River by establishing a pre-determined location and guidelines in the event of activation. The establishment of this permanent security zone provides the best opportunity for public awareness and notification. This regulatory text has been amended to include this limitation.

2. *Advance notification of enforcement.* The commenter asked how much advanced notice the Coast Guard anticipates giving the maritime community prior to enforcing the security zone.

*Response:* The Coast Guard will enforce this security zone for the protection of VIPs. The details of a protected VIP’s movements are of national security significance and therefore cannot be publicized in advance. The Coast Guard will give as much on-scene notice as possible to allow the maritime community to make changes to their schedules. Advance on-scene notice under this permanent security zone will be consistent with past temporary security zones for VIP travel. On-scene notification will be made to the local maritime community by issuance of Local Notice to Mariners, Broadcast Notice to Mariners, Marine Safety Information Bulletin (MSIB) as well as actual notice. Additionally, law enforcement vessels enforcing the security zone will be operating with rotating blue lights which will indicate activation of the security zone; the blue

lights will be turned off to notify public of deactivation of the security zone. We have amended the regulatory text for additional clarity in regards to how notification will be provided.

3. *Average time of enforcement.* The commenter asked about the average length of enforcement.

*Response:* In the past, similar temporary security zones in this area have been established in order to provide protection for traveling VIPs. These previously established security zones have historically lasted anywhere from 15 minutes to 2 hours from start to finish. Although we cannot predict the length of the enforcement of the permanent security zones during each activation, we expect that length of time for enforcement of the security zone will stay within the 15 minute to 2 hours time frame.

4. *Notification of enforcement period.* The commenter requested that the Coast Guard's notification to the public of the security zone include the duration of the enforcement and that Coast Guard issue separate communication to the public when the enforcement period is over.

*Response:* The Coast Guard Sector Delaware Bay Command Center will provide a notice of the enforcement of the security zone via marine broadcast. On scene, the Patrol Commander will notify the maritime community of the time periods for the enforcement of the security zone via marine broadcast and other means as needed per 33 CFR 165.7.

5. *Access while the zone is in effect.* The commenter asked the Coast Guard to indicate those critical criteria that would preclude a vessel from remaining in or transiting through the zone while the zone is being enforced and to outline the process for gaining approval to remain in or transit through the security zone.

*Response:* The Coast Guard will assess a vessel wishing to remain in or transit through the security zone on a case by case basis. Vessel details, such as location, size, cargo, and transit history, will be evaluated to determine who may or may not remain in or transit through the security zone. The Coast Guard will evaluate this information internally and give direction to the Patrol Commander enforcing the security zone. Vessels wishing to transit or remain in the zone must contact and request permission from the Patrol Commander via VHF-FM channel 13 or 16.

6. *Ships/barges at the berth or anchorage for cargo and/or bunkering operations.* The commenter asked that the Coast Guard continue to allow

vessels anchored or at berth to continue to conduct cargo and bunkering operations while the Coast Guard is enforcing the security zone. Historically, cargo and bunkering operations have been allowed during the implementation and enforcement of this temporary security zone.

*Response:* The Coast Guard does not anticipate requiring ships or barges at berths or anchorages within the security zone to stop cargo or bunkering operations during the enforcement of the security zone unless the transfer operations pose a hazard during the enforcement period.

7. *Maritime Transportation System Recovery Unit (MTSRU).* The commenter asked the Coast Guard to stand up the Maritime Transportation System Recovery Unit (MTSRU) to mitigate any issues and have a standardized location for communication.

*Response:* The Coast Guard does not intend to stand up the MTSRU when enforcing the security zone because historically enforcement periods have been so short that MTSRU is not required. If an event significantly disrupts traffic, the Coast Guard will establish a MTSRU. Otherwise, Sector Delaware Bay's Command Center, manned 24 hours, is the point of contact for any issues regarding vessel intentions and traffic management issues, and can address emergent traffic or operations issues.

#### B. Changes From the NPRM

We made four changes in the regulatory text of this rule from the proposed rule in the NPRM. First, we noted that the coordinates listed in paragraph (a), Location, use North American Datum 83. Second, we made stylistic changes to the format of the contents of paragraph (b), Definitions. Third, within paragraph (b), Definitions, we defined the meanings and intent of the term Very Important Person (VIP). Fourth, we have amended paragraph (d), Enforcement, to specifically state that the security zone can only be used in relation to the movement of VIPs to or from the Philadelphia International Airport.

#### C. The Rule

This rule establishes a permanent security zone on all waters of the Delaware River in the vicinity of Philadelphia International airport, within an area bound to the west by a line drawn from the New Jersey shoreline at Thompson Point, latitude 39°50'37" N, longitude 75°18'23" W, thence northwest to the Pennsylvania shoreline at latitude 39°51'45" N,

longitude 75°18'46" W; thence up river and bound shoreline to shoreline; bound to the east by a line drawn from the New Jersey shoreline at latitude 39°52'28" N, longitude 75°11'14" W, and thence northwest to the Pennsylvania shoreline near the eastern side of mouth to the Schuylkill River at latitude 39°53'05" N, longitude 75°11'34" W; the security zone extends north into the waters of Schuylkill River, bound from shoreline to shoreline, including the waters of Schuylkill River adjacent to the Navy Yard Reserve Basin Bridge, and terminates along a line drawn from latitude 39°54'04" N, longitude 75°12'56" W, thence eastward across the Schuylkill River to latitude 39°54'07" N, longitude 75°12'48" W, located approximately 500 yards northwest and parallel with the George C. Platt Memorial—Penrose Avenue lift-bridge. This security zone will be enforced with actual notice by the U.S. Coast Guard representatives on scene, as well as other methods listed in 33 CFR 165.7.

#### V. Regulatory Analyses

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

##### A. Regulatory Planning and Review

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

This regulatory action is based on the security zone's size, location, and duration. Although the security zone area covers a large portion of the navigable waterways, mariners may request permission from COTP Coast Guard Sector Delaware Bay or the designated representative to transit or remain in the security zone. Furthermore, the duration of the security zone would not significantly impact vessels because of the small amount of time it takes for protected VIP to transit to or from the airport. Advance notifications will be made to the local

maritime community by issuance of Local Notice to Mariners, Broadcast Notice to Mariners, and MSIB so mariners can adjust their plans accordingly.

#### *B. Impact on Small Entities*

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

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

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

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

#### *C. Collection of Information*

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

#### *D. Federalism and Indian Tribal Governments*

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

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

#### *E. Unfunded Mandates Reform Act*

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

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a security zone generally lasting no more than 2 hours, which will restrict vessels from anchoring or transiting in portions of the Delaware River while protected VIPs arrive or depart from the Philadelphia International Airport. It is categorically excluded from further review under paragraph 34(g) of Figure

2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### *G. Protest Activities*

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

#### **List of Subjects in 33 CFR Part 165**

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

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

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

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

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

■ 2. Add § 165.558 to read as follows:

#### **§ 165.558 Security Zone; Delaware River, and Schuylkill River, Philadelphia, PA.**

(a) *Location.* The following area is a security zone: All waters of the Delaware River in the vicinity of Philadelphia International Airport, within an area bound to the west by a line drawn from the New Jersey shoreline at Thompson Point, latitude 39°50′37″ N, longitude 75°18′23″ W, thence northwest to the Pennsylvania shoreline at latitude 39°51′45″ N, longitude 75°18′46″ W; thence up river and bound shoreline to shoreline; bound to the east by a line drawn from the New Jersey shoreline at latitude 39°52′28″ N, longitude 75°11′14″ W, and thence northwest to the Pennsylvania shoreline near the eastern side of mouth to the Schuylkill River at latitude 39°53′05″ N, longitude 75°11′34″ W; the security zone extends north into the waters of Schuylkill River, bound from shoreline to shoreline, including the waters of Schuylkill River adjacent to the Navy Yard Reserve Basin Bridge, and terminates along a line drawn from latitude 39°54′04″ N, longitude 75°12′56″ W, thence eastward across the Schuylkill River to latitude 39°54′07″ N, longitude 75°12′48″ W, located approximately 500 yards northwest and

parallel with the George C. Platt Memorial—Penrose Avenue lift-bridge. These coordinates are based on North American Datum 83 (NAD83).

(b) *Definitions.* As used in this section—

*Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

*Official patrol vessel* means any Coast Guard, Coast Guard Auxiliary, State, or local law enforcement vessel assigned or approved by the COTP.

*Very important person (VIP)* means any person for whom the United States Secret Service requests implementation of a security zone in order to supplement protection of said person(s).

(c) *Regulations.* (1) In accordance with the general regulations contained in § 165.33, entry into or movement within this zone is prohibited unless authorized by the COTP, Sector Delaware Bay, or designated representative.

(2) Only vessels or people specifically authorized by the Captain of the Port, Delaware Bay, or designated representative, may enter or remain in the regulated area. To request permission to enter or remain in the regulated area contact the COTP or the COTP's representative on VHF-FM channel 13 or 16. Vessel operators and persons within the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. No person may swim upon or below the surface of the water of this security zone unless authorized by the COTP or his designated representative.

(3) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with lawful direction may result in expulsion from the regulated area, citation for failure to comply, or both.

(d) *Enforcement.* This security zone will be enforced with actual notice by the U.S. Coast Guard representatives on scene, as well as other methods listed in § 165.7. The Coast Guard will enforce the security zone created by this section only when it is necessary for the protection of VIPs traveling to or from the Philadelphia International Airport. The U.S. Coast Guard may be

additionally assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

Dated: February 9, 2018.

**Scott E. Anderson,**

*Captain, U. S. Coast Guard, Captain of the Port, Delaware Bay.*

[FR Doc. 2018–03217 Filed 2–15–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2018–0061]

RIN 1625–AA00

#### Safety Zone; Santa Rosa Sound, Pensacola Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the navigable waters within a 500 yard radius of the Kokosing Cable Lay Barge on the Santa Rosa Sound, Pensacola Beach, FL. This temporary safety zone is necessary to provide for the safety of life and property on these navigable waters during a power cable laying project taking place on the waterway. Entry into or transiting in this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Sector Mobile (COTP) or a designated representative.

**DATES:** This rule is effective without actual notice from February 16, 2018 through March 30, 2018. For the purposes of enforcement, actual notice will be used from February 10, 2018 through February 16, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0061 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Kyle D. Berry, Sector Mobile, Waterways Management Division, U.S. Coast Guard; telephone 251–441–5940, email [Kyle.D.Berry@uscg.mil](mailto:Kyle.D.Berry@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

BNM Broadcast Notice to Mariners  
CFR Code of Federal Regulations

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

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. It is impracticable to publish an NPRM because we must establish this safety zone by February 10, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. It is also contrary to the public interest as it would delay the safety measures necessary to protect life and property from the possible hazards associated with the power cable laying project.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule is contrary to public interest because it would delay the safety measures necessary to respond to potential safety hazards associated with this project. Immediate action is needed to protect vessels and mariners from the safety hazards associated with the power cable laying project on the waterway.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Mobile (COTP) has determined that potential hazards associated with the power cable laying project from February 10, 2018 through March 30, 2018 will be a safety concern for any vessels or persons in the vicinity of the Kokosing Cable Lay Barge located between positions 30°21'26.0" N, 87°09'13.0" W and 30°20'04.7" N, 87°08'20.8" W on the Santa Rosa Sound, Pensacola Beach, FL. This rule is needed to protect the public, mariners, and vessels from the potential hazards

associated with a power cable laying project on the waterway.

#### IV. Discussion of the Rule

This rule establishes a temporary safety zone encompassing all navigable waters within a 500 yard radius of the power cable laying project in the vicinity of the Kokosing Cable Lay Barge located between positions 30°21'26.0" N, 87°09'13.0" W and 30°20'04.7" N, 87°08'20.8" W from February 10, 2018 through March 30, 2018. The location and duration of this safety zone is intended to protect persons and vessels during the power cable laying project taking place on this navigable waterway. No person or vessel will be permitted to enter or transit within the safety zone, unless specifically authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Mobile. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF-FM channel 16 or by telephone at 251-441-5976. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. Public notifications will be made to the local maritime community prior to the event through Broadcast Notice to Mariners (BNM).

#### V. Regulatory Analyses

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

##### A. Regulatory Planning and Review

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

This regulatory determination is based on the size, location, and duration of the safety zone. This temporary safety zone will only restrict navigation in a 500 yard radius portion of the Santa Rosa Sound, in Pensacola Beach, FL for duration of the power cable laying project. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners (BNM) via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

##### B. Impact on Small Entities

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

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

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

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

##### C. Collection of Information

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

##### D. Federalism and Indian Tribal Governments

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

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

##### E. Unfunded Mandates Reform Act

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

##### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within a 500 yard radius of the Kokosing Cable Lay Barge on the Santa Rosa Sound. It is categorically excluded from further



review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev.01. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

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

#### List of Subjects 33 CFR Part 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T08-0061 to read as follows:

#### § 165.T08-0061 Safety Zone; Santa Rosa Sound, Pensacola Beach, FL.

(a) *Location.* The following area is a safety zone: All navigable waters within a 500 yard radius of the Kokosing Cable Lay Barge located between positions 30°21'26.0" N, 87°09'13.0" W and 30°20'04.7" N, 87°08'20.8" W on the Santa Rosa Sound, Pensacola Beach, FL.

(b) *Enforcement period.* This section will be enforced from February 10, 2018 through March 30, 2018.

(c) *Regulations.* (1) The general regulations contained in § 165.23 as well as the regulations in this section apply to the regulated area.

(2) Entry into this zone is prohibited unless authorized by the Captain of the Port Sector Mobile (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Mobile.

(3) Persons or vessels seeking to enter into or transit through the zone must request permission from the COTP or a designated representative. They may be

contacted on VHF-FM channel 16 or by telephone at 251-441-5976.

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

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone.

Dated: February 9, 2018.

**M.R. Mclellan,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Mobile.*

[FR Doc. 2018-03228 Filed 2-15-18; 8:45 am]

**BILLING CODE 9110-04-P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-0998]

RIN 1625-AA00

#### Safety Zone; Pensacola Bay, Pensacola, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone for all navigable waters on Pensacola Bay within 500 yards of the construction of the new Pensacola Bay Bridge in Pensacola, FL. The purpose of the safety zone is to protect personnel, vessels, and the marine environment from potential hazards created by work performed during the construction of the new bridge located across the Pensacola Bay. This rulemaking restricts speed to an idle speed or slowest safe speed for all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Sector Mobile (COTP) or a designated representative.

**DATES:** This rule is effective without actual notice from February 16, 2018 until December 31, 2020. For the purposes of enforcement, actual notice will be used from February 7, 2018 until February 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email Lieutenant Kyle D. Berry, Sector Mobile, Waterways Management Division, U.S. Coast Guard; telephone 251-441-5940, email [Kyle.D.Berry@uscg.mil](mailto:Kyle.D.Berry@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The construction of the Pensacola Bay Bridge has advanced to the phase requiring the presence of vessels, barges, and cranes that are now working in and around the main navigation channel and other areas frequently navigated by recreational vessels. Hazards associated with this phase of the construction include accidental falling debris, submerged objects, collision, allision, and other navigational hazards. It is impracticable to publish an NPRM because we must establish this safety zone immediately to prevent injury to persons and vessels and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), and for the reasons stated above, the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because of the potential safety hazards associated with the work.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Mobile (COTP) has determined that potential hazards associated with the bridge work that is currently ongoing will be a safety concern for anyone within 500 yards of the construction of the new Pensacola Bay Bridge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable



waters within the safety zone while the bridge work is being completed.

#### IV. Discussion of the Rule

This rule establishes a temporary safety zone effective from February 7, 2018 until December 31, 2020 on Pensacola within 500 yards of the construction of the new Pensacola Bay Bridge in Pensacola, FL. The safety zone is needed to protect life and property from the hazards associated with the construction of the new bridge on Pensacola Bay. This rulemaking restricts speed to an idle speed or slowest safe speed for all vessels, mariners, and persons unless specifically authorized by the COTP or a designated representative. The duration of the zone is intended to ensure the safety of people and vessels on these navigable waters during the construction of the new bridge.

#### V. Regulatory Analyses

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

##### A. Regulatory Planning and Review

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

This regulatory action determination is based on size, location, and duration of the rulemaking. This safety zone will be in place within 500 yards of the construction of the new Pensacola Bay Bridge until the estimated completion of the bridge on December 31, 2020. Vessels are permitted to enter the safety zone, but must do so at idle or the slowest safe speed. Additionally, the Coast Guard will issue Broadcast Notices to Mariners via VHF-FM marine channel 16 about the regulation so that waterway users may plan accordingly for transits during this restriction.

##### B. Impact on Small Entities

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

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

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

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

##### C. Collection of Information

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

##### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under executive order 13132, federalism, if it has a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in executive order 13132.

Also, this rule does not have tribal implications under executive order 13175, consultation and coordination with Indian Tribal governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

##### E. Unfunded Mandates Reform Act

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

##### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zone within 500 yards of the construction of the new Pensacola Bay Bridge on Pensacola Bay, Pensacola, FL. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

##### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to

coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Recordkeeping Requirements, Security Measures, Waterways.

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0998 to read as follows:

#### § 165.T08–0998 Safety Zone; Pensacola Bay, Pensacola, FL.

(a) *Location.* The following area is a temporary safety zone: All navigable waters of the Pensacola Bay within 500 yards of the construction of the new Pensacola Bay Bridge.

(b) *Enforcement period.* This section will be enforced from February 7, 2018 through December 31, 2020.

(c) *Regulations.* In accordance with the general regulations in § 165.23, persons and vessels entering this safety zone must transit at idle or the slowest safe speed and comply with all lawful directions issued by the Captain of the Port Sector Mobile (COTP) or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

Dated: February 7, 2018.

**M.R. McLellan,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Mobile.*

[FR Doc. 2018–03239 Filed 2–15–18; 8:45 am]

**BILLING CODE 9110–04–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R01–OAR–2017–0150; FRL–9973–18–Region 1]

#### Air Plan Approval; Connecticut; Nonattainment New Source Review Permit Requirements for the 2008 8-Hour Ozone Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the state implementation plan (SIP) revision submitted on March 9, 2017 by the Connecticut Department of Energy and Environmental Protection (CT DEEP) addressing the nonattainment new source review (NNSR) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The SIP revision addresses both of Connecticut's ozone nonattainment areas for the 2008 ozone NAAQS; the Greater Connecticut area and the Connecticut portion of the New York-N. New Jersey-Long Island, NY–NJ–CT area. The Connecticut portion of the New York-N. New Jersey-Long Island, NY–NJ–CT ozone nonattainment area consists of Fairfield, New Haven, and Middlesex counties. The Greater Connecticut nonattainment area includes the rest of the State. This action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

**DATES:** This rule is effective on March 19, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0150. 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.*, 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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. The EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional

Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; email address: [dahl.donald@epa.gov](mailto:dahl.donald@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### Table of Contents

- I. Background and Purpose
- II. Response to Comment
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background and Purpose

On August 14, 2017, EPA published a Notice of Proposed Rulemaking (NPR) (82 FR 37829) and Direct Final Rulemaking (DFRN) (82 FR 37819) proposing to approve and approving, respectively, Connecticut's demonstration that its nonattainment new source review regulations approved into the state implementation plan meet the requirements of the 2008 8-hour ozone standard. The demonstration was submitted on March 9, 2017 by the CT DEEP as a SIP revision. In the DFRN, EPA stated that if an adverse comment were to be submitted to EPA by September 13, 2017, the action would be withdrawn and not take effect, and a final rule would be issued based on the NPR. EPA received one adverse comment prior to the close of the comment period. Therefore, EPA withdrew the DFRN on October 13, 2017 (82 FR 47630). This action is a final rule based on the NPR. A detailed discussion of Connecticut's March 9, 2017 SIP revision and EPA's rationale for approving the SIP revision was provided in the DFRN and will not be restated here, except to the extent it is relevant to our response to the public comment we received.

#### II. Response to Comment

EPA received one adverse comment on its August 14, 2017 (82 FR 37829) Notice of Proposed Rulemaking.

**Comment:** The commenter stated that EPA is required to evaluate Connecticut's NNSR SIP as it relates to the ozone transport region (OTR) requirements in section 184 of the CAA.

**Response:** The Connecticut SIP's NNSR requirements are at least as stringent, and in some instances more

stringent, than what is required by CAA section 184. That is the reason why EPA's DFRN did not discuss the section 184 requirements. As stated in the DFRN, Connecticut's SIP-approved NNSR regulation contains the CAA's NNSR requirements applicable to serious and severe nonattainment areas, even though the two nonattainment areas in the State are now classified as moderate nonattainment under the 2008 8-hour ozone NAAQS. Connecticut retained these requirements based on its designations and classifications associated with the earlier, revoked 1-hour ozone standard, effective November 15, 1990. For example, the Connecticut SIP's major stationary source threshold for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) in the area of the State defined in the SIP as a "Severe nonattainment area for ozone" is 25 tons per year. The SIP defines "Severe nonattainment area for ozone" as 24 specific towns, independently from how these towns are currently classified under the ozone NAAQS. The SIP defines the remaining towns in the State as "Serious nonattainment area for ozone." The Connecticut SIP's major stationary source threshold for NO<sub>x</sub> and VOC in the area of the State defined in the SIP as a "Serious nonattainment area for ozone" is 50 tons per year. Section 184(b)(2) of the CAA provides that stationary sources that emit or have the potential to emit at least 50 tons per year of VOCs shall be considered a major stationary source and are subject to the requirements that would be applicable to major stationary sources if the area were classified as a moderate nonattainment area. For areas within the OTR that are classified as marginal nonattainment, moderate nonattainment, attainment, or unclassifiable, the major stationary source threshold for sources of NO<sub>x</sub> is 100 tons per year. See 40 CFR 51.165(a)(1)(iv)(A)(2). Thus, Connecticut's NNSR SIP contains major stationary source thresholds that are at least as stringent as, and in some instances more stringent than, the thresholds required by CAA section 184 and EPA's implementing regulations.

Connecticut's NNSR SIP also contains more stringent modification thresholds for VOC and NO<sub>x</sub>, as precursors to ozone, in the State's SIP definition of "Major modification." The Connecticut SIP's major modification thresholds for NO<sub>x</sub> and VOC are both 25 tons per year. Under the CAA's implementing regulations, for areas within the OTR that are classified as marginal nonattainment, moderate

nonattainment, attainment, or unclassifiable, the major modification thresholds for both ozone precursors is 40 tons per year. See 40 CFR 51.165(a)(1)(x). Thus, Connecticut's NNSR SIP contains major modification thresholds that are more stringent than the thresholds required by CAA section 184 and EPA's implementing regulations.

Connecticut's NNSR SIP is at least as stringent in all respects as compared to the OTR requirements contained in CAA section 184. By demonstrating that Connecticut's NNSR SIP meets the requirements for serious or severe nonattainment areas, the Connecticut SIP is shown to be as stringent, or in some instances, more stringent, than the requirements of section 184 of the CAA as it pertains to the NNSR permit program.

### III. Final Action

EPA is approving Connecticut's March 9, 2017, SIP revision addressing the NNSR requirements for the 2008 8-hour ozone NAAQS for both nonattainment areas in the State. The approval encompasses both the original designations under the 2008 8-hour ozone NAAQS of marginal and the subsequent reclassification of both nonattainment areas to moderate. The approval also includes the applicable NNSR provisions of Connecticut's regulations that satisfy the CAA's anti-backsliding requirements. That is, Connecticut's SIP retains the NNSR requirements applicable to serious and severe nonattainment areas (associated with the earlier, revoked 1-hour ozone standard), even though the two nonattainment areas in the State are now classified as moderate nonattainment areas for the 2008 ozone NAAQS. By demonstrating that Connecticut's SIP meets the NNSR requirements for serious and severe nonattainment areas, EPA has concluded that the State's submission fulfills the requirements of 40 CFR 51.1114, and meets the requirements of CAA sections 110, 182, and 184 as well as the minimum SIP requirements of 40 CFR 51.165.

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the Second Circuit by April 17, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: February 6, 2018.

**Alexandra Dapolito Dunn,**

*Regional Administrator, EPA New England.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart H—Connecticut

■ 2. Section 52.377 is amended by adding paragraph (r) to read as follows:

##### § 52.377 Control strategy: Ozone.

\* \* \* \* \*

(r) *Approval*—Submittal from the Connecticut Department of Energy and Environmental Protection dated March 9, 2017, to address the nonattainment new source review requirements for the 2008 8-hour ozone NAAQS for the Greater Connecticut and the New York-N. New Jersey-Long Island, NY-NJ-CT ozone nonattainment areas, as it meets

the requirements for both the State’s marginal and moderate classifications.

[FR Doc. 2018–03252 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R02–OAR–2017–0340; FRL–9974–47–Region 2]

#### Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a source-specific revision to the New York State Implementation Plan (SIP). The SIP revision establishes Best Available Retrofit Technology (BART) emission limits for sulfur dioxide that are identical to those set by the EPA’s Federal Implementation Plan (FIP) for the Roseton Generating Station, Units 1 and 2, which was promulgated in an action taken on August 28, 2012. The EPA finds that the SIP revision fulfills the requirements of the Clean Air Act and the EPA’s Regional Haze Rule for Roseton Units 1 and 2. In conjunction with this approval, the EPA is withdrawing the FIP that addresses BART for Roseton Units 1 and 2.

**DATES:** This rule is effective on March 19, 2018.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2017–0340. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional available information.

#### FOR FURTHER INFORMATION CONTACT:

Irene B. Nielson, Environmental Protection Agency, Air Programs Branch, 290 Broadway, New York, New York 10007–1866 at 212–637–3586 or by email at [nielson.irene@epa.gov](mailto:nielson.irene@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” refer to the EPA.

#### Table of Contents

- I. What action is the EPA taking today?
- II. What significant comments were received in response to the EPA’s proposed action?
- III. What are the EPA’s conclusions?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. What action is the EPA taking today?

The EPA is approving a source-specific State Implementation Plan (SIP) revision for Units 1 and 2 of the Roseton Generating Station submitted by the New York State Department of Environmental Conservation (NYSDEC) on April 18, 2017. The EPA is approving emission limits for sulfur dioxide (SO<sub>2</sub>) for Roseton Units 1 and 2 that are equivalent to the emission limits established by the EPA’s Federal Implementation Plan (FIP), which was promulgated on August 28, 2012 (77 FR 51915).

In its submittal, the NYSDEC included the following BART emission limits for Roseton Units 1 and 2: 0.55 pounds of SO<sub>2</sub> per million British thermal unit (lb SO<sub>2</sub>/MMBtu) calculated on a 24-hour average for each unit.<sup>1</sup> As a result of the EPA’s approval, the EPA is withdrawing those portions of the FIP that address BART for Roseton Units 1 and 2. The reader is referred to the EPA’s proposal, 82 FR 48942 (October 23, 2017), for a detailed discussion of this SIP revision.

#### II. What significant comments were received in response to the EPA’s proposed action?

During the public comment period, three interested parties submitted comments on the EPA’s proposal. Two comments expressed support of this action. A third commenter expressed support for the benefits of reduced sulfur for public health and raised the following two additional comments.

*Comment 1:* The commenter questioned the need for the SIP revision since the FIP was already in place.

*Response:* The Clean Air Act (CAA) obligates the EPA to act on a State’s SIP submittal or revision, provided the submittal meets minimum completeness criteria. CAA section 110(k) (1); 40 CFR

<sup>1</sup> In the SIP submittal and in subsequent correspondence with the EPA, NYSDEC notes the oxides of nitrogen (NO<sub>x</sub>) and Particulate Matter (PM) limits for Roseton Generating Station Units 1 and 2, which were not subject to the FIP and are not part of this SIP action, are consistent with BART limits approved by EPA in its August 28, 2012 Final Action on New York’s Regional Haze SIP (77 FR 51915).

part 51, appendix V. Because the SIP revision meets CAA requirements, we are required to approve it. *See* CAA section 110(k)(3), (l).

*Comment 2:* The commenter suggested that the State should submit new or updated enforcement rules.

*Response:* It is unclear what the commenter means by “new or updated enforcement rules.” NYSDEC submitted a SIP revision to address the BART requirements for Roseton Units 1 and 2. The commenter has not identified any issues with the SIP revision that would warrant a change in the EPA’s proposal to approve it.

### III. What are the EPA’s conclusions?

The EPA has evaluated the Roseton SIP Revision and is determining that it meets the requirements of the CAA and the Regional Haze Rule. Therefore, the EPA is approving the BART emission limits and related administrative requirements (*i.e.*, monitoring, recordkeeping, and reporting requirements) for Roseton Units 1 and 2, which are identical to those contained in the EPA’s 2012 FIP: 0.55 pounds of SO<sub>2</sub> per million British thermal unit (lb SO<sub>2</sub>/MMBtu) calculated on a 24-hour average for each unit (Units 1 and 2). Consequently, the EPA is withdrawing those portions of the 2012 FIP that address BART for Roseton Units 1 and 2.

At the time of the proposal, Roseton and Danskammer were the only two sources in New York State subject to the Regional Haze FIP (77 FR 51915). In a separate action, effective January 3, 2018, the EPA withdrew the FIP requirements for Danskammer after approving a source-specific SIP (82 FR 57126). In this action, the EPA is similarly approving a source-specific SIP for Roseton and withdrawing the FIP requirements for that facility. Upon the effective date of the **Federal Register** notice, the requirements in the approved SIP for Roseton Generating Station Units 1 and 2 will apply, the FIP requirements for Roseton Generating Station Units 1 and 2 will be withdrawn, and the Regional Haze FIP, 40 CFR 52.1686, will be removed in its entirety.

### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of a single-source SIP revision, dated April 18, 2017, for Roseton Units 1 and 2 (Facility DEC ID 3334600075), including Title V permit conditions (permit ID 3–3346–

00075/0008) that include BART emission limits for SO<sub>2</sub>. The summary of emission limits and other enforceable requirements in this SIP revision are included in section I of this notice. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 2 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 SIP, 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 the Director of the Federal Register in the next update to the SIP compilation.<sup>2</sup>

### V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is exempt from review by the Office of Management and Budget (OMB) because it will result in the approval of a SIP submitted by the NYSDEC for Roseton Units 1 and 2. Approval of SIPs falls within a category of actions that is exempt from review by OMB. It was therefore not submitted to OMB for review.

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

This action is not an Executive Order 13771 regulatory action because this action falls within the category of actions that OMB has exempted from review. This action specifically is an approval of a SIP.

#### C. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA).<sup>3</sup> Because this final rule has identical recordkeeping and reporting requirements to the EPA’s 2012 FIP, the PRA does not apply.

<sup>2</sup> 62 FR 27968 (May 22, 1997).

<sup>3</sup> 44 U.S.C. 3501 *et seq.*

#### D. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This rule does not impose any requirements or create impacts on small entities as no small entities are subject to the requirements of this rule.

#### E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Because this final rule has identical BART emission limits and related administrative requirements (*i.e.*, monitoring, recordkeeping and reporting requirements) to the EPA’s 2012 FIP, this final rule is not subject to the requirements of sections 202 or 205 of UMRA. This final rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

#### F. Executive Order 13132: Federalism

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

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

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

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997). The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act*

This rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). As explained previously, the SIP revision being approved in this action includes identical BART emission limits

and related administrative requirements (i.e., monitoring, recordkeeping and reporting requirements) to the EPA's 2012 FIP.

*L. Congressional Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability.

*M. 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 17, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: February 8, 2018.

**E. Scott Pruitt,**  
*Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart HH—New York**

■ 2. In § 52.1670, the table in paragraph (d) is amended by revising the entry “Roseton Generating Station-Dynegy” to read as follows:

**§ 52.1670 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA-APPROVED NEW YORK SOURCE-SPECIFIC PROVISIONS**

Name of source	Identifier No.	State effective date	EPA approval date	Comments
Roseton Generating Station .....	NYSDEC Facility No. 33346000075.	12/5/2016	2/16/2018	Best Available Retrofit Technology (BART) emission limits for SO <sub>2</sub> pursuant to 6 NYCRR part 249 for Units 1 and 2.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

\* \* \* \* \*

**§ 52.1686 [Removed and Reserved]**

■ 3. Section 52.1686 is removed and reserved.

[FR Doc. 2018–03192 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R01–OAR–2017–0138; FRL–9973–19–Region 1]**

**Air Plan Approval; New Hampshire; Rules for Open Burning and Incinerators**

**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 New Hampshire on August 9, 2011 and July 23, 2013. These SIP revisions establish rules for open burning and establish emission standards and operating practices for incinerators and wood waste burners that are not regulated pursuant to Federal incinerator standards. We are also approving revisions to the definitions of “Incinerator” and “Wood Waste Burner,” submitted by the State on July 23, 2013 and October 26, 2016, respectively. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on March 19, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0138. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at [www.regulations.gov](http://www.regulations.gov) or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office

Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Alison C. Simcox, Environmental Scientist, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05–02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109–3912; (617) 918–1684; [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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**I. Background and Purpose**

On January 10, 2003, New Hampshire Department of Environmental Services (NH DES) submitted a SIP revision for Env-A 1000 (Prevention, Abatement and Control of Open Source Air Pollution). On August 9, 2011, NH DES submitted an updated version of this regulation. Because the 2011 submittal superseded the previous submission, the State withdrew the 2003 submittal on May 5, 2014. The withdrawal letter is included in the docket for this action.

On July 23, 2013, NH DES submitted Env-A 1900 (Incinerators and Wood Waste Burners) and Env-A 101.104 (definition of “Incinerator”) to EPA for approval. Env-A 1900 is not currently part of the federally-approved New Hampshire SIP. The definition of the term “Incinerator” is currently part of the New Hampshire SIP, but is codified at Env-A 101.59<sup>1</sup> and does not include a reference to “wood-waste burners.” The submitted definition of “Incinerator” adds “wood-waste burners” to the definition and is codified at Env-A 101.104. The current SIP-approved version of the definition of “Incinerator” (Env-A 101.59) will be replaced by the new definition of that term (Env-A 101.104) as a result of this approval.

A definition of “Wood Waste Burner” is currently part of the New Hampshire SIP, but is codified as Env-A 101.95 and

explicitly excludes incinerators. On October 26, 2016, NH DES submitted a revision of the definition of “Wood Waste Burner” (Env-A 101.219) to EPA for approval. This revised definition does not exclude incinerators. The current SIP-approved version of the definition of “Wood Waste Burner” (Env-A 101.95) will be replaced by the new definition of that term (Env-A 101.219) as a result of this approval.

The version of Env-A 1900 (Incinerators and Wood Waste Burners) submitted by the State to EPA included an affirmative defense provision for malfunction, which is defined as a sudden and unavoidable breakdown of process or control equipment. On April 13, 2016, NH DES sent a letter to EPA withdrawing the affirmative defense provision in Env-A 1900 (*i.e.*, 1902.02). In addition, an earlier SIP submission of Env-A 1900 had included an exception to the 20-percent visible emissions limit that would have allowed these emissions to be exceeded for one period of 6 continuous minutes in any 60-minute period during startup, shutdown, or malfunction. However, NH DES removed this exception from the July 23, 2013 submittal.

These SIP revisions establish rules for open burning and establish emission standards and operating practices for incinerators and wood waste burners that are not regulated pursuant to Federal incinerator standards. New Hampshire also submitted revisions to the definitions of “Incinerator” and “Wood Waste Burner” on July 23, 2013 and October 26, 2016, respectively.

On September 6, 2017, EPA published a Notice of Proposed Rulemaking (82 FR 42054) and Direct Final Rulemaking (DFRN) (82 FR 42037) proposing to approve and approving, respectively, the revisions submitted by New Hampshire on August 9, 2011, July 23, 2013, and October 26, 2016.

In the DFRN, EPA stated that if an adverse comment were to be submitted to EPA by October 6, 2017, the action would be withdrawn and not take effect, and a final rule would be issued based on the NPR. EPA received a comment that is not relevant to this SIP action, and one adverse comment that is relevant, before the close of the comment period. Therefore, EPA withdrew the DFRN on November 6, 2017 (82 FR 51349).

This action is a final rule based on the NPR. A detailed discussion of New Hampshire's August 9, 2011; July 23, 2013; and October 26, 2016, SIP revisions, and EPA's rationale for approving these were provided in the DFRN and will not be restated here, except to the extent relevant to our

response to the public comments we received.

**II. Response to Comments**

EPA received public comments from anonymous commenters on our September 6, 2017 NPR. All of the comments are contained in the docket for this final action. One commenter submitted a comment that is not relevant to this SIP action and, therefore, requires no response. One commenter submitted two comments that are adverse and are discussed below.

*Comment 1:* An anonymous commenter noted that the proposed revisions to New Hampshire's Env-A 1000 (Prevention, Abatement and Control of Open Source Air Pollution) removes the reference to National Ambient Air Quality Standards (NAAQS) nonattainment areas for particulate matter (PM) pollution that appears in the current SIP-approved version of Env-A 1000. The commenter stated that “EPA should not be allowed to reduce emission standards just because a corporation or company incinerator wants to burn more wood. Wood is a particularly dirty fuel source that causes significant particulate matter pollution both 2.5 microns and 10 microns.”

*Response 1:* The SIP-approved Env-A 1000 (provision 1001.02) allowed for certain types of open burning if: (1) Not prohibited by local ordinance or officials having jurisdiction, such as state forest fire wardens, and (2) where the particular area has not been designated nonattainment in relation to the NAAQS for PM. Under Env-A 1000, such burning was allowed in NAAQS nonattainment areas for PM (when not prohibited by local ordinance or officials having jurisdiction) if written authorization had been obtained by the NH DES. In the revised version of Env-A 1000, the State has removed the restriction on these activities in nonattainment areas for particulates. EPA believes that the version of Env-A 1000 we are approving is consistent with CAA requirements for SIP revisions, notwithstanding the absence of references to nonattainment areas for NAAQS as a limiting condition on certain types of burning. Because there have never been any designated nonattainment areas for PM in New Hampshire, the current provision is not in fact imposing any restrictions on emissions. Thus, the emissions reductions attributable to the revised version of Env-A 1000 we are approving is functionally the same as the prior version. Moreover, we note that the current ambient levels of PM within the

<sup>1</sup> This appears to be an error because there are two different terms numbered 101.59 in Env-A 101, and the term “incinerator” is listed after term number 48 and before term number 50.



State are below the currently applicable PM NAAQS. In the event that ambient PM in New Hampshire were to exceed the applicable NAAQS, we would expect the State to add additional emissions controls to address the appropriate sources to bring the area back into attainment.

*Comment 2:* The same anonymous commenter asserted that the “EPA also can’t remove nuisance provisions as they can cover enforcement of NAAQS pollutants that cause nuisances to neighboring communities and disadvantages communities. Sometimes only nuisance provisions are the only enforcement mechanism available to the little people that can’t afford big lawyers or consent decrees with big companies.”

*Response 2:* New Hampshire’s revision to Env-A 1000 removes two references to “nuisance” in the current SIP, which was approved in 1994. EPA believes that the State’s revised version of the regulation is approvable under the CAA because the term “nuisance” in Env-A 1000, as defined in state law, is a broad concept that could be applied to prohibit impacts that bear no reasonable connection to the NAAQS and related air-quality goals of the CAA. The fact that something may cause a nuisance does not necessarily equate to a condition that would interfere with attainment or maintenance of the NAAQS. The wording of the prior version of the SIP provision was not sufficiently related to attainment and maintenance of the PM NAAQS to warrant inclusion in the SIP. See, for example, analogous instances in which EPA has removed from SIPs certain regulations that prohibit odors (61 FR 47058, September 6, 1996), or that contain a general prohibition against air pollution (63 FR 65557, November 27, 1998).

### III. Final Action

EPA is approving and incorporating two regulations into the New Hampshire SIP. The two regulations include revised Env-A 1000 (Prevention, Abatement and Control of Open Source Air Pollution) submitted by the State of New Hampshire on August 9, 2011, effective on May 1, 2011; and Env-A 1900 (Incinerators and Wood Waste Burners) submitted by the State on July 23, 2013, effective April 23, 2013, except for the withdrawn affirmative defense provision. The revised version of Env-A 1000 that we are approving into the SIP will replace the existing SIP-approved version of Env-A 1000.

In addition, EPA is approving a revised definition of “Incinerator” (Env-A 101.104), submitted by the State on July 23, 2013, effective April 23, 2013,

which replaces the definition of “Incinerator” currently in the New Hampshire SIP (numbered Env-A 101.59). We are also approving a revised definition of “Wood Waste Burner” (Env-A 101.219), submitted by the State on October 26, 2016, effective January 14, 2005, which replaces the definition of “Wood Waste Burner” currently in the New Hampshire SIP (numbered Env-A 101.95). Thus, the SIP at Env-A 101.59 and at Env-A 101.95 will read “[reserved].”

New Hampshire organizes Env-A 101 (Definitions) alphabetically, and also assigns a codification number, in sequential order, to each defined term. Because the State’s SIP submissions did not include the entirety of Env-A 101, and the State has added other definitions to Env-A 101 over time (not all of which are SIP-approved), our approval of the two definitions in this action will result in the numbered codification assigned to the defined terms being out of numerical sequence in the SIP. However, the two defined terms will still be in alphabetical order.

### IV. 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 New Hampshire Code of Administrative Rules 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/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>2</sup>

### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP

submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a

<sup>2</sup> 62 FR 27968 (May 22, 1997).



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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of nonagency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801. Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

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

Dated: February 6, 2018.

**Alexandra Dapolito Dunn**,  
Regional Administrator, EPA New England.

For the reasons set forth 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 EE—New Hampshire

■ 2. In § 52.1520 paragraph (c), amend the table by:

■ a. Adding four entries for “Env-A 100” after the entry “Env-A 100; Organizational Rules: Definitions”;

■ b. Revising the entry “Env-A 1000”; and

■ c. Adding in numerical order an entry “Env-A 1900”.

The revision and additions read as follows:

#### § 52.1520 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

#### EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date <sup>1</sup>	Explanations
Env-A 100	Definition of “Incinerator”	04/29/2003	02/16/2018, [Insert <b>Federal Register</b> citation].	Remove Part Env-A 101.59, definition of “Incinerator” and replace with “[reserved].”
Env-A 100	Definition of “Wood Waste Burner”.	04/29/2003	02/16/2018, [Insert <b>Federal Register</b> citation].	Remove Part Env-A 101.95, definition of “Wood Waste Burner” and replace with “[reserved].”
Env-A 100	Definition of “Incinerator”	04/23/2013	02/16/2018, [Insert <b>Federal Register</b> citation].	Approve Part Env-A 101.104, definition of “Incinerator.”
Env-A 100	Definition of “Wood Waste Burner”.	01/14/2005	02/16/2018, [Insert <b>Federal Register</b> citation].	Approve Part Env-A 101.219, definition of “Wood Waste Burner.”
Env-A 1000	Control of Open Burning	05/01/2011	02/16/2018, [Insert <b>Federal Register</b> citation].	Approve Part Env-A 1000 “Prevention, Abatement and Control of Open Source Air Pollution.”
Env-A 1900	Emission Standards and Operating Practices for Incinerators.	04/23/2013	02/16/2018, [Insert <b>Federal Register</b> citation].	Approve Part Env-A 1900 “Incinerators and Wood Waste Burners.”

<sup>1</sup> In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

\* \* \* \*

[FR Doc. 2018–03251 Filed 2–15–18; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[EPA–HQ–OPP–2014–0247; FRL–9973–03]

#### Pendimethalin; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation amends the tolerances for residues of pendimethalin in or on alfalfa, forage and alfalfa, hay. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective February 16, 2018. Objections and requests for hearings must be received on or before April 17, 2018, and must be filed in accordance with the instructions provided in 40 CFR part

178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2014-0247, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

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

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this action apply to me?*

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

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an

objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2014-0247 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before April 17, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2014-0247, by one of the following methods:

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

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

### **II. Summary of Petitioned-For Tolerance**

In the **Federal Register** of August 1, 2014 (79 FR 44729) (FRL-9911-67), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4F8245) by BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.361 be amended by increasing the tolerances for residues of the herbicide pendimethalin, [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-

2-methyl-3,5-dinitrobenzyl alcohol, in or on alfalfa, forage to 80 parts per million (ppm) and alfalfa, hay to 150 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket EPA-HQ-OPP-2014-0397 at <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

### **III. Aggregate Risk Assessment and Determination of Safety**

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

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

#### *A. Toxicological Profile*

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

The target organ for pendimethalin is the thyroid. Thyroid toxicity in chronic and subchronic rat and mouse studies was manifested as alterations in thyroid hormones (decreased total T4 and T3,

increased percent of free T4 and T3), increased thyroid weight, and microscopic thyroid lesions (including increased thyroid follicular cell height, follicular cell hyperplasia, as well as follicular cell adenomas). Due to these effects, the Agency required that a developmental thyroid assay be conducted to evaluate the impact of pendimethalin on thyroid hormones, structure, and/or thyroid hormone homeostasis during development. A developmental thyroid study was submitted and demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

There is no evidence that pendimethalin is a developmental, reproductive, neurotoxic, or immunotoxic chemical. There is no evidence of increased qualitative or quantitative susceptibility in the young. EPA classified pendimethalin as a "Group C", possible human carcinogen based on a statistically significant increased trend and pair-wise comparison between the high-dose group and controls for thyroid follicular cell adenomas in male and female rats. A non-quantitative approach (*i.e.*, non-

linear, reference dose (RfD) approach) was used to assess cancer risk since mode-of-action studies are available to demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance, and also since pendimethalin was shown to be non-mutagenic in mammalian somatic cells and germ cells.

Specific information on the studies received and the nature of the adverse effects caused by pendimethalin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of December 21, 2015 (80 FR 79267) (FRL-9937-18).

#### *B. Toxicological Points of Departure/ Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation

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

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

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

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	NOAEL = 100 mg/kg/day. UF <sub>A</sub> = 10x UF <sub>H</sub> = 10x FQPA SF = 1x	Acute RfD = 1 mg/kg/day. aPAD = 1 mg/kg/day	Acute neurotoxicity study. LOAEL = 300 mg/kg/day based on reduced motor activity for males and females on Day 0.
Chronic dietary (All populations)	NOAEL = 10 mg/kg/day. UF <sub>A</sub> = 3x UF <sub>H</sub> = 10x FQPA SF = 1x	Chronic RfD = 0.3 mg/kg/day. cPAD = 0.3 mg/kg/day	92-Day thyroid function study in rats; 56-day thyroid study in rats; 14-day intra thyroid metabolism study in rats. LOAEL = 31 mg/kg/day based on hormonal and histopathological changes in the thyroid.
Incidental oral short-term (1 to 30 days).	NOAEL = 10 mg/kg/day. UF <sub>A</sub> = 3x UF <sub>H</sub> = 10x FQPA SF = 1x	LOC for MOE = 30 ..	92-Day thyroid function study in rats; 56-day thyroid study in rats; 14-day intra thyroid metabolism study in rats. LOAEL = 31 mg/kg/day based on hormonal and histopathological changes in the thyroid.
Dermal short-term (1 to 30 days).	Dermal (or oral) study NOAEL = 10 mg/kg/day (dermal absorption rate = 3%. UF <sub>A</sub> = 3x UF <sub>H</sub> = 10x FQPA SF = 1x	LOC for MOE = 30 ..	92-Day thyroid function study in rats; 56-day thyroid study in rats; 14-day intra thyroid metabolism study in rats. LOAEL = 31 mg/kg/day based on hormonal and histopathological changes in the thyroid.
Dermal intermediate-term (1 to 6 months).	Dermal (or oral) study NOAEL = 10 mg/kg/day (dermal absorption rate = 3%. UF <sub>A</sub> = 3x UF <sub>H</sub> = 10x FQPA SF = 1x	LOC for MOE = 30 ..	92-Day thyroid function study in rats; 56-day thyroid study in rats; 14-day intra thyroid metabolism study in rats. LOAEL = 31 mg/kg/day based on hormonal and histopathological changes in the thyroid.

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

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Inhalation short-term (1 to 30 days).	Inhalation (or oral) study NOAEL = 10 mg/kg/day (inhalation absorption rate = 100%). UF <sub>A</sub> = 3x UF <sub>H</sub> = 10x FQPA SF = 1x	LOC for MOE = 30 ..	92-Day thyroid function study in rats; 56-day thyroid study in rats; 14-day intra thyroid metabolism study in rats. LOAEL = 31 mg/kg/day based on hormonal and histopathological changes in the thyroid.
Inhalation (1 to 6 months) .....	Inhalation (or oral) study NOAEL = 10 mg/kg/day (inhalation absorption rate = 100%). UF <sub>A</sub> = 3x UF <sub>H</sub> = 10x FQPA SF = 1x	LOC for MOE = 30 ..	92-Day thyroid function study in rats; 56-day thyroid study in rats; 14-day intra thyroid metabolism study in rats. LOAEL = 31 mg/kg/day based on hormonal and histopathological changes in the thyroid.
Cancer (Oral, dermal, inhalation).	Group C, possible human carcinogen based on a statistically significant increased trend and pair-wise comparison between the high dose group and controls for thyroid follicular cell adenomas in male and female rats. The chronic RfD will be protective of cancer effects.		

FQPA SF = Food Quality Protection Act Safety Factor. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. LOAEL = lowest observed adverse effect level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF<sub>A</sub> = extrapolation from animal to human (interspecies). UF<sub>DB</sub> = to account for the absence of data or other data deficiency. UF<sub>H</sub> = potential variation in sensitivity among members of the human population (intraspecies). UF<sub>L</sub> = use of a LOAEL to extrapolate a NOAEL. UF<sub>S</sub> = use of a short-term study for long-term risk assessment.

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pendimethalin, EPA considered exposure under the petitioned-for tolerances as well as all existing pendimethalin tolerances in 40 CFR 180.361. EPA assessed dietary exposures from pendimethalin in food as follows:

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

Such effects were identified for pendimethalin. In estimating acute dietary exposure, EPA Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID) Version 3.16. This software uses 2003–2008 food consumption data from the U.S.

Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA used tolerance-level residues, and 100 percent crop treated (PCT) for all commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the DEEM-FCID, Version 3.16 software with 2003–2008 food consumption data from the USDA's NHANES/WWEIA. As to residue levels in food, EPA used tolerance-level residues, and 100 PCT for all commodities.

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

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

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

Based on the Pesticide Root Zone Model Ground Water (PRZM GW) and

Surface Water Concentration Calculator (SWCC) models, the estimated drinking water concentrations (EDWCs) of pendimethalin for acute exposures are estimated to be 96.4 parts per billion (ppb) for surface water and  $4.38 \times 10^{-9}$  ppb for ground water. For chronic exposures for non-cancer assessments, they are estimated to be 9.73 ppb for surface water.

For acute dietary risk assessment, the water concentration value of 96.4 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 9.73 ppb was used to assess the contribution to drinking water.

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

Pendimethalin is currently registered for the following uses that could result in residential exposures: Turf, home gardens, and ornamentals. EPA assessed residential exposure using the following assumptions:

- For handlers, it is assumed that residential use will result in short-term (1 to 30 days) duration dermal and inhalation exposures.
- Residential post-application exposure is also assumed to be short-term (1–30 days) in duration, resulting from the following exposure scenarios:
  - Gardening: Adults (dermal) and children 6 < 11 years old (dermal);
  - Physical activities on turf: Adults (dermal) and children 1–2 years old (dermal and incidental oral);
  - Mowing turf: Adults (dermal) and children 11 < 16 years old (dermal); and
  - Exposure to golf courses during golfing: Adults (dermal), children 11 < 16 years old (dermal), and children 6 < 11 years old (dermal).

EPA did not combine exposure resulting from adult handler and post-application exposure resulting from treated gardens, lawns, and/or golfing because the conservative assumptions and inputs within each estimated exposure scenario would result in an overestimate of adult exposure. EPA selected the most conservative adult residential scenario (adult dermal post-application exposure from gardening) as the contributing source of residential exposure to be combined with the dietary exposure for the aggregate assessment. The children’s oral exposure is based on post-application hand-to-mouth exposures. To include exposure from object-to-mouth and soil ingestion in addition to hand-to-mouth would overestimate the potential for

oral exposure. However, there is the potential for co-occurrence of dermal and oral exposure, since the toxicological effects from the dermal and oral routes of exposure are the same. As a result, the children’s aggregate assessment combines post-application dermal and oral exposure along with dietary exposure from food and water. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide>.

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

EPA has not found pendimethalin to share a common mechanism of toxicity with any other substances, and pendimethalin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pendimethalin does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

#### D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There was no indication of pre- and/or

post-natal qualitative or quantitative increased susceptibility in the developmental studies in rats and rabbits or the 2-generation reproduction studies in rats. A developmental thyroid toxicity study demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

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

i. The toxicity database for pendimethalin is complete. Although a subchronic inhalation study was not available in the database, EPA determined that one is not needed at this time based on a weight-of-evidence analysis, considering the following: (1) All relevant hazard and exposure information, which indicates its low acute inhalation toxicity; (2) its physical/chemical properties, which indicate its low volatility; and (3) the use of an oral POD that results in a residential inhalation margin of exposure (MOE) more than 10X the level of concern (in the case of pendimethalin MOE = 30 based on thyroid POD).

ii. There is no indication that pendimethalin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that pendimethalin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. In addition, a developmental thyroid toxicity study demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to pendimethalin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pendimethalin.

#### E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to pendimethalin will occupy 2% of the aPAD for all infants less than 1 year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pendimethalin from food and water will utilize 2.4% of the cPAD for children one to two years old the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of pendimethalin is not expected.

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

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

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 130 for adults and 92 for children 1–2 years old, the two population subgroups receiving the greatest combined dietary and non-dietary exposure. Because EPA's level of concern for pendimethalin is a MOE of 30 or below, these MOEs are not of concern.

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

An intermediate-term adverse effect was identified; however, pendimethalin is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term

risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for pendimethalin.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has determined that an RfD approach based on the chronic point of departure is appropriate for evaluating cancer risk. As there are not chronic aggregate risks of concern, there are no cancer aggregate risk concerns.

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

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate enforcement methodology, gas chromatography with electron capture detection (GC/ECD), is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

##### B. International Residue Limits

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

There are currently no established Codex MRLs for the residues of pendimethalin on alfalfa hay, although Codex has established an MRL for residues of pendimethalin in alfalfa fodder (which is equivalent to the US commodity of alfalfa forage) at 4 ppm. Harmonization is not possible because use of the Codex MRL would result in residues of pendimethalin exceeding tolerances in the U.S. as a result of use in accordance with the approved label.

#### V. Conclusion

Therefore, tolerances are established for plant residues by measuring only the sum of pendimethalin, [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol calculated as the stoichiometric equivalent of pendimethalin, in or on alfalfa, forage at 80 ppm and alfalfa, hay at 150 ppm. In addition, the Agency is revising the tolerance expression for paragraph (a)(1) to clarify that the residues of the parent compound are to be summed with the residues of the metabolite in order to determine compliance with the tolerance. This revision does not substantively change the existing language; the current language already requires measurement of both residues. The insertion of the words “the sum” just provides a small clarification for measuring residues to determine compliance with the tolerance.

#### VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001); Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations

under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

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

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

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

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: January 30, 2018.

**Daniel J. Rosenblatt,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

### PART 180—[AMENDED]

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

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

■ 2. In § 180.361:

■ a. Revise the introductory text of paragraph (a)(1).

■ b. Revise the entries for “Alfalfa, forage”; and “Alfalfa, hay” in the table in paragraph (a)(1).

The revisions read as follows:

#### § 180.361 Pendimethalin; tolerances for residues.

(a)(1) *General.* Tolerances are established for residues of the herbicide pendimethalin, including its metabolites and degradates, in or on the commodities. Compliance with the tolerance levels specified in the following table below is to be determined by measuring only the sum of pendimethalin, [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, calculated as the stoichiometric equivalent of pendimethalin, in or on the commodity.

Commodity	Parts per million
Alfalfa, forage .....	80
Alfalfa, hay .....	150
* * * * *	*

\* \* \* \* \*

[FR Doc. 2018–03277 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA–HQ–SFUND–2002–0001; FRL–9974–43—Region 1]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hatheway & Patterson Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 1 announces the deletion of the Hatheway & Patterson Superfund Site (Site) located in Mansfield and Foxborough, Massachusetts, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Massachusetts, through the Massachusetts Department of Environmental Protection (MassDEP), have determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This action is effective February 16, 2018.

**ADDRESSES:** *Docket:* EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–2002–0001. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are:

U.S. EPA Region 1, Superfund Records Center, 5 Post Office Square, Suite 100, Boston, MA 02109, Phone: 617–918–1440, Monday–Friday: 9:00 a.m.–5:00 p.m., Saturday and Sunday—Closed.

#### FOR FURTHER INFORMATION CONTACT:

Kimberly White, Remedial Project Manager, U.S. Environmental Protection Agency, Region 1, OSRR07–1, Boston, MA 02109–3912, (617) 918–1752, email: [white.kimberly@epa.gov](mailto:white.kimberly@epa.gov).

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is: Hatheway & Patterson Superfund Site, Mansfield and Foxborough, Massachusetts. A notification of deletion for this Site was published in the **Federal Register** (82 FR 56939) on December 1, 2017.

The closing date for comments on the notification of deletion was January 2, 2018. Six (6) public comments were received and three of the comments questioned whether EPA completed what is required under CERCLA and whether deletion of the Site was appropriate; the remaining three comments did not articulate a position on the proposed deletion. As a result of the comments, EPA published a notification of withdrawal of the direct final rule in the **Federal Register** (83 FR 4431) on January 31, 2018, withdrawing the direct final deletion for the Site and announcing it would evaluate and respond to the significant comments and, if appropriate, proceed with the traditional two-step deletion process.

After consideration of the comments received, EPA concluded that the deletion of the Site is still appropriate. Based on EPA's evaluation of the data, the remedy protects human health and the environment because remediation of the soil (soil removal and on-site consolidation) has been completed to cleanup levels that are considered protective for the anticipated future use of the property, there is no current use of on-site groundwater which is classified as non-potable, and institutional controls are in place. Operation and maintenance activities are on-going and will ensure that the consolidation area and associated components of the remedy (e.g., groundwater monitoring wells) remain in good condition. In addition, monitoring of groundwater will continue to assess the protectiveness of the remedy. Monitoring data collected as part of the operation and maintenance plan for the Site will continue to be collected for the foreseeable future and the data will be continuously evaluated. The data will be reported as part of the next Five-Year Review scheduled for 2019. During the Five-Year Review, EPA will evaluate whether the remedy remains protective. If additional actions are warranted, EPA will implement those actions. A responsiveness summary was prepared which addresses all comments received on the deletion and provides further rationale that the deletion is appropriate. The responsiveness summary may be viewed in both the docket, EPA-HQ-SFUND-2002-0001, on [www.regulations.gov](http://www.regulations.gov), and in the local repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL,

the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 29, 2018.

**Alexandra Dapolito Dunn**,  
Regional Administrator Region 1.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

#### PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

#### Appendix B to Part 300—[Amended]

■ 2. Table 1 of appendix B to part 300 is amended by removing “MA”, “Hatheway and Patterson Company”, “Mansfield”.

[FR Doc. 2018–03275 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF891

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action

is necessary to prevent exceeding the A season allowance of the 2018 Pacific cod total allowable catch apportioned to vessels using pot gear in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), February 14, 2018, through 1200 hours, A.l.t., June 10, 2018.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sidebarboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2018 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Central Regulatory Area of the GOA is 1,075 metric tons (mt), as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017) and inseason adjustment (82 FR 60327, December 20, 2017).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2018 Pacific cod TAC apportioned to vessels using pot gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,065 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA



(AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by vessels using pot gear in

the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 12, 2018.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: February 13, 2018.

**Emily H. Menashes,**

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

[FR Doc. 2018–03266 Filed 2–13–18; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register

Vol. 83, No. 33

Friday, February 16, 2018

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2018-0110; Product Identifier 2017-NM-125-AD]

RIN 2120-AA64

### 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 757 airplanes. This proposed AD was prompted by reports of bolt rotation in the engine drag fitting joint and fasteners heads; an inspection of the fastener holes revealed that cracks were found in the skin on two airplanes. This proposed AD would require repetitive inspections for skin cracking and shim migration at the upper link drag fittings, diagonal brace cracking, and fastener looseness; and applicable on-condition actions. We are proposing this AD to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by April 2, 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 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0110.

### 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-2018-0110; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### FOR FURTHER INFORMATION CONTACT:

Chandra Ramdoss, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone: 562-627-5239; fax: 562-627-5210; email: [chandraduth.ramdoss@faa.gov](mailto:chandraduth.ramdoss@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-2018-0110; Product Identifier 2017-NM-125-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 proposed AD.

### Discussion

We have received reports indicating bolt rotation in the engine drag fitting joint and fasteners heads; an inspection of the fastener holes revealed that cracks were found in the skin on two airplanes. The bolt rotations have been reported on airplanes having between 1,889 and 21,073 total flight cycles, and between 6,000 and 56,008 total flight hours. Boeing analysis has found that the root cause of the crack is loss of clamp-up causing movement of the fastener in the hole and high peak stresses, galling of the hole, and early cracking of the skin. Loss of clamp-up is potentially caused by shim migration, cracked bolt heads, loss of torque, and other contributing factors. Discontinuation of cold working on the holes (line numbers 803 through 1050) is a contributing factor to very early cracking. This condition, if not corrected, could result in cracking in the wing upper skin and forward drag fittings, and lead to a compromised upper link and reduced structural integrity of the engine strut.

### Related Service Information Under 14 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 757-57A0073 RB, dated July 14, 2017. The service information describes procedures for repetitive detailed inspections for skin cracking and shim migration at the upper link drag fittings, repetitive general visual inspections for diagonal brace cracking and fastener looseness, and applicable on-condition 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

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 accomplishment of the actions identified in the Boeing Alert

Requirements Bulletin 757–57A0073 RB, dated July 14, 2017, as described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0110.

#### Explanation of “RB” (Requirements Bulletin)

The FAA worked in conjunction with industry, under the Airworthiness

Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are “required for compliance” (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service

information more clearly identifies the actions needed to address the unsafe condition in the “Accomplishment Instructions.” The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.*, only the RC actions).

#### Costs of Compliance

We estimate that this proposed AD affects 606 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

#### ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections .....	83 work-hours × \$85 per hour = \$7,055 per inspection cycle.	\$0	\$7,055 per inspection cycle .....	\$4,275,330 per inspection cycle.

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):

**The Boeing Company:** Docket No. FAA–2018–0110; Product Identifier 2017–NM–125–AD.

#### (a) Comments Due Date

We must receive comments by April 2, 2018.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 757–57A0073 RB, dated July 14, 2017.

#### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

#### (e) Unsafe Condition

This AD was prompted by bolt rotation in the engine drag fitting joint and fasteners heads; an inspection of the fastener holes revealed that cracks were found in the skin on two airplanes. We are issuing this AD to detect and correct cracking in the wing upper skin and forward drag fittings, which could lead to a compromised upper link and reduced structural integrity of the engine strut.

#### (f) Compliance

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

#### (g) Required Actions

Except as required by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 757–57A0073 RB,

dated July 14, 2017, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 757–57A0073 RB, dated July 14, 2017.

**Note 1 to paragraph (g) of this AD:**

Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 757–57A0073, dated July 14, 2017, which is referred to in Boeing Alert Requirements Bulletin 757–57A0073 RB, dated July 14, 2017.

**(h) Exceptions to Service Information Specifications**

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 757–57A0073 RB, dated July 14, 2017, uses the phrase “the original issue date of the requirements bulletin,” this AD requires using “the effective date of this AD.”

(2) Where Boeing Alert Requirements Bulletin 757–57A0073 RB, dated July 14, 2017, specifies contacting Boeing, this AD requires repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Los Angeles 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 (j)(1) of this AD. Information may be emailed to: [9-ANM-LAACO-AMOC-Requests@faa.gov](mailto:9-ANM-LAACO-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, Los Angeles 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.

**(j) Related Information**

(1) For more information about this AD, contact Chandra Ramdoss, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5239; fax: 562–627–5210; email: [chandraduth.ramdoss@faa.gov](mailto:chandraduth.ramdoss@faa.gov).

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet <https://www.myboeingfleet.com>. You may view this

referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Renton, Washington, on February 9, 2018.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2018–03213 Filed 2–15–18; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF THE TREASURY**

**Financial Crimes Enforcement Network**

**31 CFR Part 1010**

**RIN 1506–AB39**

**Proposal of Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern**

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** FinCEN is issuing a notice of proposed rulemaking (NPRM), pursuant to Section 311 of the USA PATRIOT Act, to prohibit the opening or maintaining of a correspondent account in the United States for, or on behalf of, ABLV Bank, AS.

**DATES:** Written comments on the notice of proposed rulemaking must be submitted on or before April 17, 2018.

**ADDRESSES:** You may submit comments, identified by RIN–1506–AB39, by any of the following methods:

- **Federal E-rulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments. Include Docket Number FinCEN–2017–0013 and RIN–1506–AB39 in the submission.

- **Mail:** The Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include RIN–1506–AB39 in the body of the text. Any comments submitted by mail must be postmarked by the due date for comments indicated above. Please submit comments by one method only.

- **Comments submitted in response to this NPRM will become a matter of public record.** Therefore, you should submit only information that you wish to make publicly available.

- **Inspection of comments:** FinCEN uses the electronic, internet-accessible dockets at [Regulations.gov](https://www.regulations.gov) as its complete docket; all hard copies of materials that should be in the docket, including public comments, are

electronically scanned and placed there. **Federal Register** notices published by FinCEN are searchable by docket number, RIN, or document title, among other things, and the docket number, RIN, and title may be found at the beginning of such notices. In general, FinCEN will make all comments publicly available by posting them on <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at (800) 949–2732.

**SUPPLEMENTARY INFORMATION:**

**I. Statutory Provisions**

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56 (the USA PATRIOT Act). Title III of the USA PATRIOT Act amends the anti-money laundering (AML) provisions of the Bank Secrecy Act (BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the Secretary) to administer the BSA and its implementing regulations has been delegated to FinCEN.

Section 311 of the USA PATRIOT Act (Section 311), codified at 31 U.S.C. 5318A, grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, one or more financial institutions operating outside of the United States, one or more classes of transactions within or involving a jurisdiction outside of the United States, or one or more types of accounts is of primary money laundering concern, to require domestic financial institutions and domestic financial agencies to take certain “special measures.” The five special measures enumerated in Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to prohibit,

or impose conditions on, the opening or maintaining in the United States of correspondent or payable-through accounts for, or on behalf of, a foreign banking institution, if such correspondent account or payable-through account involves the foreign financial institution found to be of primary money laundering concern.

Before making a finding that reasonable grounds exist for concluding that a foreign financial institution is of primary money laundering concern, the Secretary is required to consult with both the Secretary of State and the Attorney General.<sup>1</sup> The Secretary shall also consider such information as the Secretary determines to be relevant, including the following potentially relevant factors:

- The extent to which such a financial institution is used to facilitate or promote money laundering in or through the jurisdiction, including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction (WMD) or missiles;
- The extent to which such a financial institution is used for legitimate business purposes in the jurisdiction; and
- The extent to which such action is sufficient to ensure that the purposes of Section 311 are fulfilled, and to guard against international money laundering and other financial crimes.<sup>2</sup>

Upon finding that a foreign financial institution is of primary money laundering concern, the Secretary may require covered financial institutions to take one or more special measures. In selecting which special measure(s) to take, the Secretary “shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency (as defined in Section 3 of the Federal Deposit Insurance Act), the Secretary of State, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the National Credit Union Administration Board, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary [of the Treasury] may find appropriate.”<sup>3</sup> In imposing the fifth special measure, the Secretary must do so “in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System.”<sup>4</sup>

In addition, in selecting which special measure(s) to take, the Secretary shall consider the following factors:

- Whether similar action has been or is being taken by other nations or multilateral groups;
- Whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;
- The extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, class of transactions, or type of account; and
- The effect of the action on United States national security and foreign policy.<sup>5</sup>

## II. Summary of Notice of Proposed Rulemaking

This NPRM sets forth (i) FinCEN’s finding that ABLV Bank, AS (ABLV), a commercial bank located in Riga, Latvia, is a foreign financial institution of primary money laundering concern pursuant to Section 311, and (ii) FinCEN’s proposal of a prohibition under the fifth special measure on the opening or maintaining in the United States of a correspondent account for, or on behalf of, ABLV. As described more fully below,<sup>6</sup> FinCEN has reasonable grounds to believe that ABLV executives, shareholders, and employees have institutionalized money laundering as a pillar of the bank’s business practices. As described in further detail below, ABLV management permits the bank and its employees to orchestrate and engage in money laundering schemes; solicits the high-risk shell company activity that enables the bank and its customers to launder funds; maintains inadequate controls over high-risk shell company accounts; and seeks to obstruct enforcement of Latvian anti-money laundering and combating the financing of terrorism (AML/CFT) rules in order to protect these business practices. In addition, illicit financial activity at the bank has included transactions for parties connected to U.S. and UN-designated entities, some of which are involved in

North Korea’s procurement or export of ballistic missiles.

## III. Background on Latvia’s Non-Resident Deposit Sector and ABLV Bank

### 1. Latvia’s Non-Resident Deposit Banking Sector

Due to geography, linguistic profile, and a stable and developed banking system, Latvia serves as a financial bridge between the Commonwealth of Independent States (CIS),<sup>7</sup> European Union (EU) and U.S. financial systems. While it lacks a legal framework that formally separates domestic banking business and non-resident banking, most Latvian banks conduct the majority of their business in either domestic retail/commercial banking or non-resident banking services, not both. Non-resident banking in Latvia allows offshore companies, including shell companies, to hold accounts and transact through Latvian banks. CIS-based actors often transfer their capital via Latvia, frequently through complex and interconnected legal structures, to various banking locales in order to reduce scrutiny of transactions and lower the transactions’ risk rating.

According to Latvia’s Financial Capital and Market Commission (FCMC), the primary banking regulator, non-resident banking services contribute between 0.8 and 1.5 percent to Latvia’s gross domestic product (GDP). Non-resident deposits (NRDs) in Latvia are equal to roughly \$13 billion. Latvian NRD banking activity transiting the U.S. financial system is estimated in recent years to have reached billions of dollars annually.

The Latvian banking system’s reliance on NRD funds for capital exposes it to increased illicit finance risk. A 2014 report by the European Commission’s Directorate General for Economic and Financial Affairs (ECFIN) singled out Latvia’s reliance on NRD banking as a risk to Latvia’s private sector, for a variety of reasons, including the fact that ensuring compliance with anti-money laundering rules may be more challenging for non-resident banks as verifying clients’ background and business activities could prove difficult. Criminal groups and corrupt officials may use elaborate offshore services to hide true beneficiaries or create fraudulent business transactions.

<sup>5</sup> 31 U.S.C. 5318A(a)(4)(B).

<sup>6</sup> FinCEN has relied on a variety of sources including nonpublic information in preparing this proposed rule. When a statement is sourced in publicly available information, FinCEN will post an exhibit containing the public source. These exhibits will be posted with this proposed rule at <https://www.regulations.gov>.

<sup>7</sup> The Commonwealth of Independent States (CIS) is a loose confederation of states making up most of the former Soviet Union. See <http://www.cisstat.com/eng/cis.htm>. For the purposes of this notice, the CIS region encompasses all members, associate members, and former members of the CIS.

<sup>1</sup> 31 U.S.C. 5318A(c)(1).

<sup>2</sup> 31 U.S.C. 5318A(c)(2)(B).

<sup>3</sup> 31 U.S.C. 5318A(a)(4)(A).

<sup>4</sup> 31 U.S.C. 5318A(b)(5).

In a positive development, since 2015, the FCMC has led significant efforts to reform Latvia's AML/CFT regulations and enforcement regime. However, as noted in the aforementioned 2014 ECFIN report, positive changes need to be consistently implemented jointly with the banks. The need to improve the institutional capacity remains a long-term challenge due to the complexities of investigating and prosecuting money laundering.

## 2. ABLV Bank

Established in 1993, ABLV Bank, AS (ABLV) is headquartered in Riga, Latvia. According to data provided by the Association of Latvian Commercial Banks, ABLV is the second largest bank in Latvia by assets, with the equivalent of roughly \$4.6 billion as of March 31, 2017. ABLV is Latvia's largest NRD bank by assets. As further described below, the majority of ABLV's customers are high-risk shell companies registered outside of Latvia.

ABLV offers banking, investment, and advisory services. ABLV currently does not maintain correspondent accounts directly with U.S. banks, but instead accesses the U.S. financial system through nested U.S. dollar correspondent relationships with other foreign financial institutions. Those foreign financial institutions, in turn, hold direct U.S. correspondent accounts.

ABLV holds several subsidiary entities, including a subsidiary bank, ABLV Bank, Luxembourg, S.A., located in Luxembourg. The beneficial owners of ABLV are Ernests Bernis and Oleg Fils. Bernis holds 4.93 percent of shares in the bank directly, and 43.12 percent of shares indirectly via Cassandra Holding Company, SIA. Fils holds 43.13 percent of shares in ABLV indirectly through SIA "OF Holding." Unspecified "other shareholders" own the remaining equity.

## IV. Finding ABLV To Be a Foreign Financial Institution of Primary Money Laundering Concern

Based on information available to the agency, including both public and nonpublic reporting, and after performing the requisite interagency consultations and considering each of the factors discussed below, FinCEN finds that reasonable grounds exist for concluding that ABLV is a financial institution operating outside the United States of primary money laundering concern.

### 1. *The Extent to Which ABLV Has Been Used To Facilitate or Promote Money Laundering, Including by Entities Involved in the Proliferation of Weapons of Mass Destruction or Missiles*

According to information available to FinCEN, ABLV executives, shareholders, and employees have institutionalized money laundering as a pillar of the bank's business practices. ABLV management orchestrates, and permits the bank and its employees to engage in, money laundering schemes. Management solicits the high-risk shell company activity that enables the bank and its customers to launder funds, maintains inadequate controls over high-risk shell company accounts, and is complicit in the circumvention of AML/CFT controls at the bank. As a result, multiple actors have exploited the bank in furtherance of illicit financial activity, including transactions for parties connected to U.S. and UN-designated entities, some of which are involved in North Korea's procurement or export of ballistic missiles. In addition, ABLV management seeks to obstruct enforcement of Latvian AML/CFT rules. Through 2017, ABLV executives and management have used bribery to influence Latvian officials when challenging enforcement actions and perceived threats to their high-risk business.

ABLV's business practices enable the provision of financial services to clients seeking to evade financial regulatory requirements. Bank executives and employees are complicit in their clients' illicit financial activities, including money laundering and the use of shell companies to conceal the true nature of illicit transactions and the identities of those responsible. ABLV is considered innovative and forward leaning in its approaches to circumventing financial regulations. The bank proactively pushes money laundering and regulatory circumvention schemes to its client base and ensures that fraudulent documentation produced to support financial schemes, some of which is produced by bank employees themselves, is of the highest quality.

In 2014, ABLV was involved in the theft of over \$1 billion in assets from three Moldovan banks, BC Unibank S.A., Banca Sociala S.A., and Banca de Economii S.A., in which criminals took over the three Moldovan banks using a non-transparent ownership structure, partly financed by loans from offshore entities banking at ABLV. Separately, ABLV previously developed a scheme to assist customers in circumventing foreign currency controls, in which the bank disguised illegal currency trades as

international trade transactions using fraudulent documentation and shell company accounts.

As referenced in Section III of this notice, Latvian NRD banks cater to offshore shell companies, and ABLV is Latvia's largest NRD bank. Offshore shell company business poses inherent money laundering risks because of its lack of transparency, and financial institutions must manage the risks associated with providing financial services to shell companies. As described in detail below, ABLV's continuing failure to implement adequate AML controls commensurate with this high risk has caused the bank to facilitate transactions for shell companies owned or controlled by illicit actors engaged in transnational organized criminal activity, corruption, and sanctions evasion. Oftentimes, these actors take advantage of ABLV's propensity to facilitate high-risk shell company business, using shell company accounts to obscure the transparency of their illicit activities.

ABLV does not mitigate these risks effectively. ABLV does not adequately conduct know-your-customer (KYC) checks or customer due diligence (CDD) on a number of its customers, does not collect or update supporting documentation from its customers to justify transactional activity, and uses fraudulent documentation in some of its CDD files. Furthermore, the bank has had deficiencies in its internal control system, including insufficient customer due diligence and monitoring of transactions.

In an example demonstrative of ABLV's failures to mitigate these risks, ABLV received a substantial amount of funds from a Russia-based bank in a manner consistent with an illicit transfer of assets. FinCEN assesses that ABLV should have known that the shell companies receiving the Russian bank-sourced funds in their ABLV accounts were related to the ultimate beneficial owners of the Russia-based bank. Such a pattern is a hallmark of asset-stripping. In addition, ABLV has facilitated public corruption through the provision of shell company accounts for corrupt CIS-based politically exposed persons (PEPs) and other corrupt actors. Through 2014, for example, Ukrainian tycoon Serhiy Kurchenko funneled billions of dollars through his ABLV shell company accounts. Treasury's Office of Foreign Assets Control (OFAC) designated Kurchenko in 2015, finding that he was responsible for, complicit in, or had engaged in, directly or indirectly, the misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine. ABLV

maintained at least nine shell company accounts linked to Kurchenko. In another example, an Azerbaijani PEP engaged in large-scale corruption and money laundering used a shell company account at ABLV to make a payment.

ABLV's business practice of banking high-risk shell companies without appropriate risk mitigation policies and procedures has also caused the bank to facilitate transactions for parties connected to U.S.- and UN-designated Democratic People's Republic of Korea (DPRK or North Korea) entities. These designated entities include Foreign Trade Bank (FTB), Koryo Bank, Koryo Credit Development Bank, Korea Mining and Development Trading Corporation (KOMID), and Ocean Maritime Management Company (OMM), some of which are involved in North Korea's procurement or export of ballistic missiles. ABLV facilitated transactions related to North Korea after the bank's summer 2017 announcement of a North Korea "No Tolerance" policy.

Widely available public documents describe North Korean sanctioned entities' use of front and shell companies and financial representatives to evade international sanctions. As early as 2014, the UN Panel of Experts (UN POE) noted in its report that sanctioned North Korean entities used front companies to evade international sanctions by hiding the sources of funds. Subsequent UN POE reports expanded on these findings, highlighting specific examples and methodologies used by North Korea-related entities to evade sanctions. Since 2011, the Financial Action Task Force (FATF) has called upon its members and urged all countries to apply effective countermeasures to protect their financial systems from the money laundering, terrorist financing, and proliferation financing threat emanating from the DPRK. More recently, the FATF has highlighted the DPRK's frequent use of front companies, shell companies, and opaque ownership structures for the purpose of evading international sanctions.

FinCEN has found that the DPRK is a foreign jurisdiction of "primary money laundering concern."<sup>8</sup> In its finding, FinCEN highlighted North Korea's propensity to use front companies and agents to evade U.S. and international sanctions. Finally, nongovernmental research organizations have provided in-depth case studies of DPRK-linked entities' use of front companies and representatives to evade international sanctions.

FinCEN assesses that the public nature of these reports, advisories, and actions should have provided ABLV the necessary guidance to apply appropriate due diligence to accounts and transactions that fit the typologies described in these public documents. However, ABLV's pursuit of high-risk shell company business and its failure to heed these public warnings and implement an appropriate risk-mitigating CDD and KYC program enabled certain customers to exploit ABLV's weaknesses to conduct transactions with parties connected to designated entities. Certain customers' counterparties have also been designated by OFAC, further demonstrating their links to the DPRK.

Ninety percent of ABLV's customers are high-risk per ABLV's own risk rating methodology and are primarily high-risk shell companies registered in secrecy jurisdictions. FinCEN assesses that, beginning in 2012 and continuing into 2017, ABLV conducted a high volume of transactions for shell companies registered outside of Latvia in offshore secrecy jurisdictions totaling tens of billions of dollars. FinCEN is aware that ABLV frequently fails to respond to other financial institutions' questions concerning the nature of the transactions that ABLV is processing. Multiple U.S. financial institutions have proactively closed ABLV's U.S. correspondent accounts. Nonetheless, ABLV's indirect correspondent activity with the U.S. financial system and its business model of facilitating non-transparent transactions for shell companies both continue.

While publicly stating that it is implementing plans to reform its AML/CFT compliance program, ABLV owners and executives have privately expressed an unwillingness to meaningfully alter ABLV's high-risk business practices. This fact, combined with ABLV's AML/CFT compliance issues to date raise serious concerns about the entity's commitment to implementing these plans. These concerns are further supported by the fact that ABLV management seeks to obstruct enforcement of Latvian AML/CFT rules and has used bribery to influence Latvian officials. Any institution that undermines enforcement actions through such corrupt acts presents a significant risk that it will continue practices which facilitate illicit activity.

## *2. The Extent to Which ABLV Is Used for Legitimate Business Purposes*

As an NRD bank catering to non-Latvian customers, the majority of ABLV's customers are not based in Latvia and do not conduct business in

Latvia outside of holding a bank account at ABLV. As described above, Latvia's NRD banking sector is a financial bridge between the CIS region's financial systems and the West. ABLV provides entities, typically controlled by CIS region-based actors, access to U.S. dollar, euro, pound sterling, and Swiss franc accounts, and ABLV's correspondent relationships enable its customers to transact with counterparties holding accounts at banks across the globe, including U.S. and EU financial institutions. Oftentimes, NRD customers are shell companies registered in corporate secrecy jurisdictions that are owned or controlled by parties in third jurisdictions, typically in the CIS region.

ABLV may be used for some legitimate purposes. However, the high number of shell company customers banking at ABLV, some of which are themselves engaged in money laundering or illicit activity, as described above, indicates that ABLV is extensively used for illicit purposes.

While it may carry certain risks or an additional AML/CFT compliance burden, non-resident banking is not inherently suspicious or illicit. For example, any non-Latvian entity banking in Latvia would maintain a "non-resident" account. Such non-Latvian clients may include lower-risk entities, such as publicly traded companies in the United States or other well-regulated jurisdictions. While such entities may be engaged in non-proximate banking, the customers' lines of business, ownership, and activity would be transparent, and the customers may be considered low-risk pursuant to the bank's internal policies and procedures and the relevant regulatory framework.

However, 90 percent of ABLV's customers are high-risk per ABLV's own risk rating methodology, and are primarily high-risk shell companies registered in secrecy jurisdictions, as discussed previously. FinCEN assesses that ABLV's shell company customers' involvement in a wide range of illicit and suspicious activity through ABLV indicates that ABLV does not properly control NRD accounts to ensure they are used primarily to conduct legitimate business.

As noted above, FinCEN does not believe that ABLV, or its shareholders and executives, plan to meaningfully implement AML/CFT reforms. While publicly stating that it is implementing plans to reform its AML/CFT compliance program, ABLV owners and executives have privately expressed an unwillingness to meaningfully alter ABLV's high-risk business practices.

<sup>8</sup> 81 FR 78715; November 9, 2016.

ABLV's ineffective reform measures are exemplified by its facilitation of transactions related to North Korea after the bank's summer 2017 announcement of a North Korea "No Tolerance" policy, as previously mentioned. Another illustration of ineffective reform measures is the facilitation of the aforementioned illicit transfers from a Russian bank, which occurred while ABLV was under an AML/CFT compliance audit.

## *2. The Extent to Which This Action Is Sufficient To Guard Against International Money Laundering and Other Financial Crimes*

FinCEN assesses that ABLV is used to facilitate money laundering, illicit financial schemes and other illicit activity conducted by its customers and other illicit actors, including actors associated with transnational organized crime, North Korea's procurement or export of ballistic missiles, sanctions evasion, and large-scale corruption. Given the national security threat posed by such activity, FinCEN believes that imposing a prohibition under the fifth special measure would be sufficient and necessary to prevent ABLV from continuing to access the U.S. financial system. This action would guard against international money laundering activity and other financial crimes involving ABLV.

Although U.S. financial institutions have proactively closed direct U.S. correspondent relationships with ABLV, many U.S. financial institutions continue to process transactions for or on behalf of ABLV through indirect correspondent banking relationships. This action, if finalized, would sever ABLV's access to U.S. correspondent accounts, direct or otherwise.

## **V. Proposed Prohibition on Covered Financial Institutions From Opening or Maintaining Correspondent Accounts in the United States for ABLV**

After performing the requisite interagency consultations, considering the relevant factors, and making a finding that ABLV is a foreign financial institution of primary money laundering concern, FinCEN proposes a prohibition under the fifth special measure. A prohibition under the fifth special measure is the most effective and practical measure to safeguard the U.S. financial system from the illicit finance risks posed by ABLV.

### *1. Factors Considered in Proposing a Prohibition Under the Fifth Special Measure*

Below is a discussion of the relevant factors FinCEN considered in proposing

a prohibition under the fifth special measure with respect to ABLV.

#### **A. Whether Similar Action Has Been or Will Be Taken by Other Nations or Multilateral Groups Against ABLV**

FinCEN is not aware of an action by another nation or multilateral group that would prohibit or place conditions on ABLV's correspondent banking relationships. However, according to press reports, the National Bank of Ukraine issued an advisory on August 28, 2016 to Ukrainian banks warning that ABLV, among other foreign banks, was suspected of being related to risky financial operations, including laundering the revenues of criminal activities. In addition, the FCMC has conducted examinations of ABLV and issued a fine and reprimand of a board member in May of 2016. None of these actions, however, sufficiently protect the U.S. financial system from the illicit finance risk posed by ABLV.

#### **B. Whether the Imposition of the Fifth Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated With Compliance, for Financial Institutions Organized or Licensed in the United States**

While ABLV is a large bank among Latvian financial institutions, it is not large by international standards and is not a major participant in the international payment system. Therefore, FinCEN does not believe that imposing a prohibition under the fifth special measure would cause a significant competitive disadvantage or place an undue burden or cost on U.S. financial institutions.

The special due diligence obligations proposed in this rulemaking would not create undue costs or burden on U.S. financial institutions. U.S. financial institutions already generally have systems in place to screen transactions in order to identify and report suspicious activity and comply with the sanctions programs administered by OFAC. Institutions can modify these systems to detect transactions involving ABLV. ABLV does not currently hold U.S. correspondent bank accounts. While there may be some additional burden on U.S. financial institutions in conducting due diligence on foreign correspondent account holders and notifying them of the prohibition, FinCEN believes that any such burden will likely be minimal, and certainly not undue, given the threats posed by ABLV's facilitation of money laundering.

#### **C. The Extent to Which the Proposed Action or Timing of the Action Will Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities of ABLV**

As noted previously, although ABLV is a large bank among Latvian financial institutions, it is not large by international standards, is not a major participant in the international payment system, and is not relied upon by the international banking community for clearance or settlement services. Thus, the imposition of a prohibition under the fifth special measure against ABLV will not have an adverse systemic impact on the international payment, clearance, and settlement system. FinCEN also considered the extent to which this action could have an impact on the legitimate business activities of ABLV and concludes that the need to protect the U.S. financial system from ABLV, a bank that facilitates illicit financial activity, strongly outweighs any such impact.

FinCEN notes that ABLV as of July 2017 maintained euro, Japanese yen, Hong Kong dollar, pound sterling, and Australian dollar correspondent accounts, according to a commercial database, and thus is not necessarily limited to U.S. dollar transactions in its international wire transfer activity. A prohibition on the opening or maintaining of U.S. correspondent accounts under the fifth special measure would not prevent ABLV from conducting legitimate business activities in foreign currencies as long as such activity does not involve a correspondent account maintained in the United States.

#### **D. The Effect of the Proposed Action on United States National Security and Foreign Policy**

As described in detail above, financial activity that ABLV has conducted through the U.S. financial system has consisted largely of international funds transfers between shell entities registered in offshore secrecy jurisdictions. FinCEN assesses that this financial activity includes money laundering and other transactions conducted by a range of illicit actors that threaten the national security of the United States. Furthermore, ABLV's business practice of banking high-risk shell companies without adequate risk mitigation policies and procedures has caused the bank to facilitate transactions for entities linked to North Korea. Ensuring the effectiveness of the North Korea sanctions program is a top



national security and foreign policy priority of the United States.

Prohibiting covered financial institutions from maintaining a correspondent account for ABLV, and preventing ABLV's indirect access to a U.S. correspondent account, will enhance national security. The proposed action serves as a measure to prevent illicit actors from accessing the U.S. financial system. It will further the U.S. national security and foreign policy goals of thwarting sanctions evasion and preventing other illicit financial activity from transiting the U.S. financial system. The imposition of a prohibition under the fifth special measure would also complement the U.S. government's worldwide efforts to expose and disrupt international money laundering.

## 2. Consideration of Alternative Special Measures

Under Section 311, special measures one through four enable FinCEN to impose additional recordkeeping, information collection, and information reporting requirements on covered financial institutions. The fifth special measure also enables FinCEN to impose conditions as an alternative to a prohibition on the opening or maintaining of correspondent accounts. FinCEN considered alternatives to a prohibition under the fifth special measure, including the imposition of one or more of the first four special measures, as well as imposing conditions on the opening or maintaining of correspondent accounts under the fifth special measure. For the reasons explained below, FinCEN believes that a prohibition under the fifth special measure would most effectively safeguard the U.S. financial system from the illicit finance risks posed by ABLV.

Given ABLV's apparent disregard of regulatory reform and enforcement measures, FinCEN does not believe that any condition, additional recordkeeping requirement, or reporting requirement would be an effective measure to safeguard the U.S. financial system. Such measures would not prevent ABLV from accessing directly or indirectly the correspondent accounts of U.S. financial institutions, thus leaving the U.S. financial system vulnerable to processing the types of illicit transfers that pose a national security and money laundering risk. In addition, no recordkeeping requirement or conditions on correspondent accounts would be sufficient to guard against the risks posed by a bank that processes transactions that are designed to obscure the transactions' true nature and are ultimately for the benefit of illicit actors

or activity. Therefore, a prohibition under the fifth special measure is the only special measure that can adequately protect the U.S. financial system from the illicit financial risk posed by ABLV.

## VI. Section-by-Section Analysis for the Proposal of a Prohibition Under the Fifth Special Measure

### 1010.661(a)—Definitions

#### 1. ABLV Bank, AS

The proposed rule defines "ABLV" to mean all subsidiaries, branches, and offices of ABLV Bank, AS operating as a bank in any jurisdiction. As noted above, FinCEN is aware of one subsidiary bank, ABLV Bank, Luxembourg, S.A., located in Luxembourg.

#### 2. Correspondent Account

The proposed rule defines "Correspondent account" to have the same meaning as the definition contained in 31 CFR 1010.605(c)(1)(ii). In the case of a U.S. depository institution, this broad definition includes most types of banking relationships between a U.S. depository institution and a foreign bank that are established to provide regular services, dealings, and other financial transactions, including a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit. FinCEN is using the same definition of "account" for purposes of this proposed rule as was established for depository institutions in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.<sup>9</sup> Under this definition, "payable through accounts" are a type of correspondent account.

In the case of securities broker-dealers, futures commission merchants, introducing brokers-commodities, and investment companies that are open-end companies ("mutual funds"), FinCEN is also using the same definition of "account" for purposes of this proposed rule as was established for these entities in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.<sup>10</sup>

#### 3. Covered Financial Institution

The proposed rule defines "covered financial institution" with the same

definition used in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act, which in general includes the following:

- An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));
- a commercial bank;
- an agency or branch of a foreign bank in the United States;
- a Federally insured credit union;
- a savings association;
- a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611);
- a trust bank or trust company;
- a broker or dealer in securities;
- a futures commission merchant or an introducing broker-commodities; and
- a mutual fund.

#### 4. Foreign Banking Institution

The proposed rule defines "foreign banking institution" to mean a bank organized under foreign law, or an agency, branch, or office located outside the United States of a bank. The term does not include an agent, agency, branch, or office within the United States of a bank organized under foreign law. This is consistent with the definition of "foreign bank" under 31 CFR 1010.100.

#### 5. Subsidiary

The proposed rule defines "subsidiary" to mean a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

### 1010.661(b)—Prohibition on Accounts and Due Diligence Requirements for Covered Financial Institutions

#### 1. Prohibition on Opening or Maintaining Correspondent Accounts

Section 1010.661(b)(1) and (2) of this proposed rule would prohibit covered financial institutions from opening or maintaining in the United States a correspondent account for, or on behalf of, ABLV. It would also require covered financial institutions to take reasonable steps to not process a transaction for the correspondent account of a foreign banking institution in the United States if such a transaction involves ABLV. Such reasonable steps are described in 1010.661(b)(3), which sets forth the special due diligence requirements a covered financial institution would be required to take when it knows or has reason to believe that a transaction involves ABLV.

#### 2. Special Due Diligence for Correspondent Accounts

As a corollary to the prohibition set forth in section 1010.661(b)(1) and (2),

<sup>9</sup> See 31 CFR 1010.605(C)(2)(i).

<sup>10</sup> See 31 CFR 1010.605(c)(2)(ii)–(iv).

section 1010.661(b)(3) of the proposed rule would require covered financial institutions to apply special due diligence to all of their foreign correspondent accounts that is reasonably designed to guard against such accounts being used to process transactions involving ABLV. As part of that special due diligence, covered financial institutions would be required to notify those foreign correspondent account holders that the covered financial institutions know or have reason to believe provide services to ABLV that such correspondents may not provide ABLV with access to the correspondent account maintained at the covered financial institution. A covered financial institution may satisfy this notification requirement using the following notice:

*Notice:* Pursuant to U.S. regulations issued under Section 311 of the USA PATRIOT Act, see 31 CFR 1010.661, we are prohibited from opening or maintaining in the United States a correspondent account for, or on behalf of, ABLV. The regulations also require us to notify you that you may not provide ABLV, including any of its subsidiaries, branches, and offices with access to the correspondent account you hold at our financial institution. If we become aware that the correspondent account you hold at our financial institution has processed any transactions involving ABLV, including any of its subsidiaries, branches, and offices we will be required to take appropriate steps to prevent such access, including terminating your account.

The purpose of the notice requirement is to aid cooperation with correspondent account holders in preventing transactions involving ABLV from accessing the U.S. financial system. FinCEN does not require or expect a covered financial institution to obtain a certification from any of its correspondent account holders that access will not be provided to comply with this notice requirement.

Methods of compliance with the notice requirement could include, for example, transmitting a notice by mail, fax, or email. The notice should be transmitted whenever a covered financial institution knows or has reason to believe that a foreign correspondent account holder provides services to ABLV.

Special due diligence also includes implementing risk-based procedures designed to identify any use of correspondent accounts to process transactions involving ABLV. A covered financial institution would be expected to apply an appropriate screening mechanism to identify a funds transfer order that on its face listed ABLV as the financial institution of the originator or beneficiary, or otherwise referenced ABLV in a manner detectable under the

financial institution's normal screening mechanisms. An appropriate screening mechanism could be the mechanisms used by a covered financial institution to comply with various legal requirements, such as the commercially available software programs used to comply with the economic sanctions programs administered by OFAC.

### 3. Recordkeeping and Reporting

Section 1010.661(b)(4) of the proposed rule would clarify that the proposed rule does not impose any reporting requirement upon any covered financial institution that is not otherwise required by applicable law or regulation. A covered financial institution must, however, document its compliance with the notification requirement described above.

## VII. Request for Comments

FinCEN invites comments on all aspects of the proposed rule, including the following specific matters:

1. FinCEN's proposal of a prohibition under the fifth special measure under 31 U.S.C. 5318A(b), as opposed to special measures one through four or imposing conditions under the fifth special measure;

2. The form and scope of the notice to certain correspondent account holders that would be required under the rule; and

3. The appropriate scope of the due diligence requirements in this proposed rule.

## VIII. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" that will "describe the impact of the proposed rule on small entities." (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

### 1. Proposal to Prohibit Covered Financial Institutions From Opening or Maintaining Correspondent Accounts With Certain Foreign Banks Under the Fifth Special Measure

A. Estimate of the Number of Small Entities to Whom the Proposed Fifth Special Measure Will Apply

For purposes of the RFA, both banks and credit unions are considered small entities if they have less than

\$550,000,000 in assets.<sup>11</sup> Of the estimated 6,192 banks, 80 percent have less than \$550,000,000 in assets and are considered small entities.<sup>12</sup> Of the estimated 6,021 credit unions, 92.5 percent have less than \$550,000,000 in assets.<sup>13</sup>

Broker-dealers are defined in 31 CFR 1010.100(h) as those broker-dealers required to register with the Securities and Exchange Commission (SEC). For the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the Small Business Administration (SBA). The SEC has defined the term small entity to mean a broker or dealer that: (1) Had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a-5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated debt) of less than \$500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.<sup>14</sup> Based on SEC estimates, 17 percent of broker-dealers are classified as small entities for purposes of the RFA.<sup>15</sup>

Futures commission merchants (FCMs) are defined in 31 CFR 1010.100(x) as those FCMs that are registered or required to be registered as a FCM with the Commodity Futures Trading Commission (CFTC) under the Commodity Exchange Act (CEA), except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2). Because FinCEN and the CFTC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the CFTC's definition of small business as previously submitted to the SBA. In the CFTC's "Policy Statement and Establishment of Definitions of

<sup>11</sup> *Table of Small Business Size Standards Matched to North American Industry Classification System Codes*, Small Business Administration Size Standards (SBA Oct. 1, 2017) [hereinafter "SBA Size Standards"]. .) ([https://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table\\_2017.pdf](https://www.sba.gov/sites/default/files/files/Size_Standards_Table_2017.pdf))

<sup>12</sup> Federal Deposit Insurance Corporation, *Find an Institution*, <http://www2.fdic.gov/idas/main.asp>; select Size or Performance: Total Assets, type Equal or less than S: "550000" and select Find.

<sup>13</sup> National Credit Union Administration, *Credit Union Data*, <http://webapps.ncua.gov/customquery/>; select Search Fields: Total Assets, select Operator: Less than or equal to, type Field Values: "550000000" and select Go.

<sup>14</sup> 17 CFR 240.0-10(c).

<sup>15</sup> 76 FR 37572, 37602 (June 27, 2011) (the SEC estimates 871 small broker-dealers of the 5,063 total registered broker-dealers).

'Small Entities' for Purposes of the Regulatory Flexibility Act," the CFTC concluded that registered FCMs should not be considered to be small entities for purposes of the RFA.<sup>16</sup> The CFTC's determination in this regard was based, in part, upon the obligation of registered FCMs to meet the capital requirements established by the CFTC.

For purposes of the RFA, an introducing broker-commodities dealer is considered small if it has less than \$38,500,000 in gross receipts annually.<sup>17</sup> Based on information provided by the National Futures Association (NFA), 95 percent of introducing brokers-commodities dealers have less than \$38.5 million in adjusted net capital and are considered to be small entities.

Mutual funds are defined in 31 CFR 1010.100(gg) as those investment companies that are open-end investment companies that are registered or are required to register with the SEC. For the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the SBA. The SEC has defined the term "small entity" under the Investment Company Act to mean "an investment company that, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year."<sup>18</sup> Based on SEC estimates, seven percent of mutual funds are classified as "small entities" for purposes of the RFA under this definition.<sup>19</sup>

As noted above, 80 percent of banks, 92.5 percent of credit unions, 17 percent of broker-dealers, 95 percent of introducing broker-commodities dealers, no FCMs, and seven percent of mutual funds are small entities.

#### B. Description of the Projected Reporting and Recordkeeping Requirements of a Prohibition Under the Fifth Special Measure

The proposed prohibition under the fifth special measure would require covered financial institutions to provide a notification intended to aid cooperation from foreign correspondent account holders in preventing transactions involving ABLV from being processed by the U.S. financial system. FinCEN estimates that the burden on institutions providing this notice is one hour.

Covered financial institutions would also be required to take reasonable

measures to detect use of their correspondent accounts to process transactions involving ABLV. All U.S. persons, including U.S. financial institutions, currently must comply with OFAC sanctions, and U.S. financial institutions have suspicious activity reporting requirements. The systems that U.S. financial institutions have in place to comply with these requirements can easily be modified to adapt to this proposed rule. Thus, the special due diligence that would be required under the proposed rule—i.e., preventing the processing of transactions involving ABLV and the transmittal of notice to certain correspondent account holders—would not impose a significant additional economic burden upon small U.S. financial institutions.

#### 2. Certification

For these reasons, FinCEN certifies that the proposals contained in this rulemaking would not have a significant impact on a substantial number of small businesses.

FinCEN invites comments from members of the public who believe there would be a significant economic impact on small entities from the imposition of a prohibition under the fifth special measure regarding ABLV.

### IX. Paperwork Reduction Act

The collection of information contained in this proposed rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by email to [oirasubmission@omb.eop.gov](mailto:oirasubmission@omb.eop.gov)) with a copy to FinCEN by mail or email at the addresses previously specified. Comments should be submitted by one method only. Comments on the collection of information should be received by April 17, 2018. In accordance with the requirements of the Paperwork Reduction Act and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information as required by 31 CFR 1010.661 is presented to assist those persons wishing to comment on the information collection.

The notification requirement in section 1010.661(b)(3)(i)(A) is intended to aid cooperation from correspondent account holders in denying ABLV access to the U.S. financial system. The

information required to be maintained by that section would be used by federal agencies and certain self-regulatory organizations to verify compliance by covered financial institutions with the provisions of 31 CFR 1010.661. The collection of information would be mandatory.

*Description of Affected Financial Institutions:* Banks, broker-dealers in securities, futures commission merchants and introducing brokers-commodities, and mutual funds.

*Estimated Number of Affected Financial Institutions:* 5,787.

*Estimated Average Annual Burden in Hours per Affected Financial Institution:* The estimated average burden associated with the collection of information in this proposed rule is one hour per affected financial institution.

*Estimated Total Annual Burden:* 5,787 hours.

FinCEN specifically invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information would have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information required to be maintained; (d) ways to minimize the burden of the required collection of information, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to report the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

### X. Executive Order 12866

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that the proposed rule is not a "significant regulatory action" for purposes of Executive Order 12866.

<sup>16</sup> 47 FR 18618, 18619 (Apr. 30, 1982).

<sup>17</sup> SBA, Size Standards to Define Small Business Concerns, 13 CFR 121.201 (2016), at 28.

<sup>18</sup> 17 CFR 270.0-10.

<sup>19</sup> 78 FR 23637, 23658 (April 19, 2013).

**List of Subjects in 31 CFR Part 1010**

Administrative practice and procedure, banks and banking, brokers, counter money laundering, counter-terrorism, foreign banking.

**Authority and Issuance**

For the reasons set forth in the preamble, part 1010, chapter X of title 31 of the Code of Federal Regulations, is proposed to be amended as follows:

**PART 1010—GENERAL PROVISIONS**

■ 1. The authority citation for part 1010 continues to read as follows:

**Authority:** 2 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316– 5332; Title III, sec. 314 Pub. L. 107–56, 115 Stat. 307; sec. 701 Pub. L. 114–74, 129 Stat. 599.

■ 2. Add § 1010.661 to read as follows:

**§ 1010.661 Special measures against ABLV**

(a) *Definitions.* For purposes of this section:

(1) *ABLV* means all subsidiaries, branches, and offices of ABLV Bank, AS operating as a bank in any jurisdiction.

(2) *Correspondent account* has the same meaning as provided in § 1010.605(c)(1)(ii).

(3) *Covered financial institution* has the same meaning as provided in § 1010.605(e)(1).

(4) *Foreign banking institution* means a bank organized under foreign law, or an agency, branch, or office located outside the United States of a bank. The term does not include an agent, agency, branch, or office within the United States of a bank organized under foreign law.

(5) *Subsidiary* means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

(b) *Prohibition on accounts and due diligence requirements for covered financial institutions—*

(1) *Opening or maintaining correspondent accounts for ABLV.* A covered financial institution shall not open or maintain in the United States a correspondent account for, or on behalf of, ABLV.

(2) *Prohibition on use of correspondent accounts involving ABLV.* A covered financial institution shall take reasonable steps not to process a transaction for the correspondent account in the United States of a foreign banking institution if such a transaction involves ABLV.

(3) *Special due diligence of correspondent accounts to prohibit use.* (i) A covered financial institution shall apply special due diligence to its foreign correspondent accounts that is

reasonably designed to guard against their use to process transactions involving ABLV. At a minimum, that special due diligence must include:

(A) Notifying those foreign correspondent account holders that the covered financial institution knows or has reason to believe provide services to ABLV that such correspondents may not provide ABLV with access to the correspondent account maintained at the covered financial institution; and

(B) Taking reasonable steps to identify any use of its foreign correspondent accounts by ABLV, to the extent that such use can be determined from transactional records maintained in the covered financial institution's normal course of business.

(ii) A covered financial institution shall take a risk-based approach when deciding what, if any, other due diligence measures it reasonably must adopt to guard against the use of its foreign correspondent accounts to process transactions involving ABLV.

(iii) A covered financial institution that knows or has reason to believe that a foreign bank's correspondent account has been or is being used to process transactions involving ABLV shall take all appropriate steps to further investigate and prevent such access, including the notification of its correspondent account holder under paragraph (b)(3)(i)(A) of this section and, where necessary, termination of the correspondent account.

(4) *Recordkeeping and reporting.* (i) A covered financial institution is required to document its compliance with the notice requirement set forth in this section.

(ii) Nothing in paragraph (b) of this section shall require a covered financial institution to report any information not otherwise required to be reported by law or regulation.

Dated: February 12, 2018.

**Jamal El-Hindi,**

*Deputy Director, Financial Crimes Enforcement Network.*

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**BILLING CODE 4810–2P–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket Number USCG–2018–0024]

RIN 1625–AA00

**Safety Zone; Cape Fear River, Wilmington, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on the navigable waters of the Cape Fear River in New Hanover County, North Carolina. This temporary safety zone is intended to restrict vessel traffic on the Cape Fear River while a vessel prepares for and actively off-loads two new Post-Panamax gantry cranes to the North Carolina State Port Authority in Wilmington, North Carolina. This action is intended to restrict vessel traffic on the Cape Fear River to protect mariners and vessels from the hazards associated with off-loading the two gantry cranes. Entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative. This proposed rule is a follow-up action to a proposed rule that can be found in docket number USCG–2017–0965. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 19, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG–2018–0024 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, contact Petty Officer Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone: 910–772–2221, email: [Matthew.I.Tyson@uscg.mil](mailto:Matthew.I.Tyson@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking

§ Section  
U.S.C. United States Code  
COTP Captain of the Port

## II. Background, Purpose, and Legal Basis

On August 22, 2017, the North Carolina State Port Authority notified the Coast Guard that they will be transporting two pre-assembled Post-Panamax gantry cranes up the Cape Fear River to the North Carolina State Port in Wilmington, North Carolina. The planned transit date is April 1, 2018 with alternate dates of March 29th, 30th, 31st, April 2nd, 3rd, or 4th, 2018. A proposed safety zone for the transit can be found in docket number USCG–2017–0965. Once the transit is complete a second safety zone is needed for the gantry cranes off-loading at the North Carolina State Port in Wilmington, North Carolina. The COTP North Carolina has determined that potential safety hazards associated with the gantry cranes off-loading would be a concern for anyone transiting the Cape Fear River.

The purpose of this rule is to protect persons, property, vessels, and the marine environment on the navigable waters on the Cape Fear River during the off load of the gantry cranes. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

## III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone on a portion of the Cape Fear River to be enforced during the preparation and active off-loading of two pre-assembled Post-Panamax gantry cranes at the North Carolina State Port in Wilmington, North Carolina for seven days, beginning once the transport vessel moors. As stated in the proposed safety zone found in docket number USCG–2017–0965, the vessel is scheduled to complete its transit on April 1, 2018. There will be alternate dates of March 29th, 30th, 31st, April 2nd, 3rd, or 4th, 2018 in case severe weather or other conditions prevent the safe transit of the vessel on April 1st. The safety zone will be enforced at various times once the vessel has been safely moored at North Carolina State Port in Wilmington, North Carolina and terminate upon completion of the crane off-load evolution. The safety zone will include all navigable waters of the Cape Fear River within 200 yards of the transport vessel while it is moored. The duration of this zone is intended to protect persons, property, vessels, and the marine environment on the navigable waters of the Cape Fear River during the off-load of the gantry cranes. No vessel or person will be permitted to

enter the safety zone unless specifically authorized by the Captain of the Port North Carolina or a designated representative. No vessels greater than 40 feet in height will be allowed to transit the safety zone.

## IV. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the proposed safety zone. Vessel traffic will not be allowed to enter or transit a portion of the Cape Fear River beginning on April 1, 2018 with alternate dates of March 29th, 30th, 31st, April 2nd, 3rd, or 4th, 2018 for seven days. The Coast Guard will issue a Local Notice to Mariners and transmit a Broadcast Notice to Mariners via VHF–FM marine channel 16 regarding the safety zone. This portion of the Cape Fear River has been determined to be a high traffic area. This rule allows vessels to request specific authorization to pass through the safety zone as long as they are under the height restriction of 40 feet.

### B. Impact on Small Entities

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

have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has

implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### *E. Unfunded Mandates Reform Act*

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

#### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone enforced at various times over a seven day period that would prohibit entry within 200 yards of a moored vessel. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### *G. Protest Activities*

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

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the

outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

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

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **List of Subjects in 33 CFR Part 165**

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

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

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

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

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

■ 2. Add § 165.T05–0024 to read as follows:

#### **§ 165.T05–0024 Safety Zone, Cape Fear River, Wilmington, NC**

(a) *Location.* The following area is a safety zone: all navigable waters of the Cape Fear River within 200 yards around the vessel transporting the two new Post-Panamax gantry cranes to the North Carolina State Port Authority in Wilmington, North Carolina while the vessel is moored at the North Carolina State Port in Wilmington, North Carolina.

(b) *Definitions.* As used in this section—

*Captain of the Port* means the Commander, Sector North Carolina.

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

*Participants* means persons and vessels involved in support of the gantry crane off load.

(c) *Regulations.* (1) The general regulations governing safety zones in § 165.23 apply to the area described in paragraph (a) of this section.

(2) With the exception of participants, entry into or remaining in this safety zone is prohibited unless authorized by the COTP North Carolina or the COTP North Carolina's designated representative. All other vessels must depart the zone immediately.

(3) To request permission to remain in, enter, or transit through the safety zone, contact the COTP North Carolina or the COTP North Carolina's representative through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910–343–3882, or on VHF–FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement Period.* This regulation will be enforced at various times for seven days once the transport vessel is moored at its berth—beginning April 1, 2018 or alternatively, March 29th, 30th, 31st, April 2nd, 3rd, or 4th, 2018.

Dated: February 2, 2018.

**Bion B. Stewart,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

[FR Doc. 2018–03267 Filed 2–15–18; 8:45 am]

**BILLING CODE 9110–04–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[EPA–R09–OAR–2017–0537; FRL–9974–58—Region 9]**

#### **Air Plan Approval; Douglas, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve, as part of the State Implementation Plan (SIP) for the State of Arizona, the second 10-year maintenance plan for the Douglas maintenance area for the 1971 National Ambient Air Quality Standards (NAAQS or “standards”) for sulfur dioxide (SO<sub>2</sub>).

**DATES:** Any comments on this proposal must be received by March 19, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0537 at <https://www.regulations.gov>, or via email to Ashley Graham, Air Planning Office at [graham.ashleyr@epa.gov](mailto:graham.ashleyr@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (e.g., audio or video) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Ashley Graham, EPA Region IX, (415) 972–3877, [graham.ashleyr@epa.gov](mailto:graham.ashleyr@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the words “we,” “us,” or “our” refer to the EPA.

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**I. Summary of Action**

We are proposing to approve the second 10-year maintenance plan for the Douglas, Arizona SO<sub>2</sub> maintenance area (“Douglas maintenance area”).<sup>1</sup> Specifically, the EPA is proposing to approve the Douglas second 10-year maintenance plan for the 1971 NAAQS for SO<sub>2</sub> under sections 110 and 175A of the Clean Air Act (CAA or “Act”) based on our determination that the plan fulfills all relevant requirements.

**II. Background***A. What NAAQS are considered in today’s rulemaking?*

The NAAQS are health-based and welfare-based standards for certain ambient air pollutants. SO<sub>2</sub> is the pollutant that is the subject of this action, and it is among the ambient air pollutants for which we have established health-based standards. SO<sub>2</sub> causes adverse health effects by reducing lung function, increasing respiratory illness, altering the lung’s defenses, and aggravating existing cardiovascular disease. Children, the elderly, and people with asthma are the most vulnerable. SO<sub>2</sub> emissions also contribute to acidic deposition, damage to crops and vegetation, and corrosion of natural and man-made materials.

In 1971 the EPA established both short- and long-term primary NAAQS for SO<sub>2</sub>. The short-term (24-hour) standard of 0.14 parts per million (ppm) was not to be exceeded more than once per year. The long-term standard specifies an annual arithmetic mean not to exceed 0.030 ppm.<sup>2</sup> See 40 CFR 50.4.

In 2010 the EPA revised the primary SO<sub>2</sub> NAAQS by establishing a new 1-hour standard of 75 parts per billion. The EPA revoked the existing 1971 primary standards at that time because they would not provide additional public health protection (75 FR 35550, June 22, 2010). Today’s action relates only to the revoked 1971 NAAQS. The State has requested that we act on this maintenance plan.<sup>3</sup>

<sup>1</sup> For the definition of the Douglas maintenance area, see 40 CFR 81.303.

<sup>2</sup> Secondary NAAQS are promulgated to protect public welfare. The secondary 1971 SO<sub>2</sub> NAAQS (3-hour) of 0.5 ppm is not to be exceeded more than once per year. The Douglas area was not classified nonattainment for the secondary standard, and this action relates only to the primary 1971 SO<sub>2</sub> NAAQS.

<sup>3</sup> This action is consistent with the CAA’s anti-backsliding provisions. The EPA’s final rule on revocation of the 1971 SO<sub>2</sub> NAAQS discussed that

*B. What is the background for this action?*

1. When was the nonattainment area established?

The Douglas maintenance area is located in southern Cochise County near the U.S.-Mexico border. On March 3, 1978, for lack of a State recommendation, we designated Cochise County as a primary SO<sub>2</sub> nonattainment area based on monitored violations of the primary SO<sub>2</sub> NAAQS in the county between 1975 and 1977 (43 FR 8968, March 3, 1978). At the request of the Arizona Department of Environmental Quality (ADEQ), the nonattainment area was subsequently reduced to three townships in and around Douglas (44 FR 21261, April 10, 1979). Thus, the nonattainment area was composed of the following townships: T23S, R27E; T24S, R27E; and T24S, R28E. The remaining townships in Cochise County, T23S, R26E; T23S, R28E; and T24S, R26E, were designated as areas that “cannot be classified.”

On the date of enactment of the 1990 CAA Amendments, SO<sub>2</sub> areas meeting the conditions of section 107(d) of the Act were designated nonattainment for the SO<sub>2</sub> NAAQS by operation of law. Section 107(d) describes the processes by which nonattainment areas are designated, including the pre-existing SO<sub>2</sub> nonattainment areas. Thus, the Douglas area remained nonattainment for the primary SO<sub>2</sub> NAAQS following enactment of the 1990 CAA Amendments on November 15, 1990.

2. When was the Douglas area redesignated for SO<sub>2</sub>?

In 2006 we redesignated the Douglas area using the criteria for SO<sub>2</sub> nonattainment areas that have discontinued ambient monitoring following the closure of the major point source that caused the air quality violations (71 FR 9941, February 28, 2006). The criteria are described in a memorandum from John Seitz titled “Redesignation of Sulfur Dioxide Nonattainment Areas in the Absence of Monitored Data,” (“Seitz Memo”).<sup>4</sup>

maintenance SIPs would continue being implemented by states until they are subsumed by new planning and control requirements associated with the revised NAAQS, and that the revoked SO<sub>2</sub> NAAQS would be retained for one year following the effective date of the initial designations for the 2010 SO<sub>2</sub> NAAQS in areas designated attainment (75 FR 35520, June 22, 2010). On January 9, 2018, Cochise County was designated Attainment/Unclassifiable for the 2010 SO<sub>2</sub> NAAQS (83 FR 1098).

<sup>4</sup> Memorandum dated October 18, 2000, from John Seitz, Director, EPA Office of Air Quality Planning and Standards, to Regional Office Air Division Directors, Subject: Redesignation of Sulfur

Continued



During its operation, the Phelps Dodge Douglas Reduction Works Smelter (PDDRWS) was the largest point source in the Douglas SO<sub>2</sub> nonattainment area, emitting approximately 330,000 tons of SO<sub>2</sub> in 1985 and contributing more than 99 percent of total SO<sub>2</sub> emissions that year. On January 15, 1987, the PDDRWS was permanently deactivated. The facility was completely dismantled by 1991. On January 30, 1992, the ADEQ confirmed that the facility was dismantled and no longer existed at the former site. On February 28, 2006, the EPA finalized approval of the maintenance plan and redesignation request for the Douglas area, effective May 1, 2006 (71 FR 9941).

### 3. What is the current status of the area?

The remaining SO<sub>2</sub> point sources in the Douglas maintenance area consist of the Arizona Public Service Fairview Generating Station, which has a facility-wide potential to emit (PTE) of about 70 tons per year (tpy) of SO<sub>2</sub>; the Bisbee Douglas International and Douglas Municipal airports; and the Arizona State Prison Complex at Douglas. The 50-kilometer (km) buffer area required by the Seitz Memo to be evaluated includes areas within Arizona and Mexico. Most of the point sources in the Arizona portion are airports; non-airport sources include the Lhoist North America mine/lime plant, the Freeport Copper Queen mine, and the Fiesta Canning Co. food processing plant. The non-airport sources have a combined PTE of 4,425 tpy SO<sub>2</sub>. The largest contributors of SO<sub>2</sub> in the Mexican portion of the 50-km buffer area are the Agua Prieta II power plant and the Mexicana de Cobre mine/lime plant, which as of 2014, have estimated facility-wide PTEs of 30 tpy SO<sub>2</sub> and 1,852 tpy SO<sub>2</sub>, respectively.<sup>5</sup>

Currently, no ambient SO<sub>2</sub> monitors operate in the Douglas area. However, we do not expect the cumulative impact of the sources in and around Douglas to cause a violation of the NAAQS because the area's emissions are sufficiently low. No new sources of SO<sub>2</sub> that are similar in size to the PDDRWS have located in the area since our redesignation of the area to attainment in 2006.

Dioxide Nonattainment Areas in the Absence of Monitored Data.

<sup>5</sup> Maintenance Plan Renewal, 1971 Sulfur Dioxide National Ambient Air Quality Standards, Douglas Maintenance Area (2016 Douglas Second Maintenance Plan), page A-21. Prior to 2014, the Mexicana de Cobre facility included two boilers and a kiln, with an estimated PTE of 1,065 tpy SO<sub>2</sub>. In 2014, a second kiln was authorized at Mexicana de Cobre, resulting in a post-2014 estimated facility-wide PTE of about 1,852 tpy.

### C. What are the applicable provisions for second 10-year maintenance plans for SO<sub>2</sub>?

#### 1. What are the statutory provisions?

Section 175A of the CAA provides the general framework for maintenance plans. The initial 10-year maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures necessary to ensure such maintenance. In addition, maintenance plans are to contain contingency provisions necessary to assure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency measures must include, at a minimum, a requirement that the state will implement all control measures contained in the nonattainment SIP prior to redesignation.

Section 175A(b) of the CAA requires states to submit a subsequent maintenance plan revision ("second 10-year maintenance plan") eight years after redesignation. The Act requires only that this second 10-year maintenance plan maintain the applicable NAAQS for 10 years after the expiration of the first 10-year maintenance plan. Beyond these provisions, section 175A of the CAA does not define the content of a second 10-year maintenance plan.

Section 110 of the CAA requires states to make SIP revisions available for public review and comment and to hold a public hearing or provide the public the opportunity to request a public hearing. The Act requires the plan be adopted by the state and submitted to the EPA by the governor or his/her designee.

#### 2. What general EPA guidance applies to SO<sub>2</sub> maintenance plans?

The primary guidance on maintenance plans and redesignation requests is a September 4, 1992 memorandum from John Calcagni, titled "Procedures for Processing Requests to Redesignate Areas to Attainment" ("Calcagni Memo").<sup>6</sup> Specific guidance on SO<sub>2</sub> redesignations also appears in a January 26, 1995 memorandum from Sally L. Shaver, titled "Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas" ("Shaver Memo").<sup>7</sup>

<sup>6</sup> Memorandum dated September 4, 1992, from John Calcagni, Director, EPA Air Quality Management Division, to Regional Office Air Division Directors, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment.

<sup>7</sup> Memorandum dated January 26, 1995, from Sally L. Shaver, Director, EPA Air Quality Strategies

Guidance on SO<sub>2</sub> maintenance plan requirements for an area lacking monitored ambient data, and where the area's historic violations were caused by a major point source that is no longer in operation, is found in the Seitz Memo (see section II.C.2). The Seitz Memo exempts eligible areas from the maintenance plan requirements of continued ambient air quality monitoring.

While the Seitz Memo primarily addresses redesignations, we find it is appropriate to apply the Seitz Memo to second 10-year maintenance plans for areas that were redesignated in accordance with the memo and continue to experience similar conditions to those at the time of redesignation.

#### 3. What are the requirements for maintenance plans for single-source SO<sub>2</sub> nonattainment areas in the absence of monitored data?

Our historic redesignation policy for SO<sub>2</sub> has called for eight quarters of clean ambient air quality data as a prerequisite to redesignation of any area to attainment. The Seitz Memo provides guidance on SO<sub>2</sub> maintenance plan requirements for an area lacking monitored ambient data and where the area's historic violations were caused by a major point source that is no longer in operation. To allow for these areas to qualify for redesignation to attainment, this policy requires that the maintenance plan address otherwise applicable provisions, and include:

(1) Emissions inventories representing actual emissions when violations occurred, current emissions, and emissions projected to the tenth year after redesignation; all three inventories should include estimates of emissions in, and within a 50-km buffer zone of, the nonattainment area boundaries;

(2) dispersion modeling showing that no SO<sub>2</sub> NAAQS violations will occur over the next 10 years and that the retired source was the dominant cause of the high concentrations in the past;

(3) evidence that if the retired source resumes operation, it would be considered a new source and be required to obtain a permit under the Prevention of Significant Deterioration (PSD) provisions of the CAA; and

(4) a commitment to resume monitoring before any major SO<sub>2</sub> source commences operation.

and Standards Division, to Regional Office Air Division Directors, Subject: Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas.



### III. The EPA's Evaluation of the Arizona Submittal

#### A. Did the State meet the CAA procedural requirements?

On December 14, 2016, the ADEQ submitted to the EPA the "Maintenance Plan Renewal, 1971 Sulfur Dioxide National Ambient Air Quality Standards, Douglas Maintenance Area" ("2016 Douglas Second Maintenance Plan"). The State verified that it had adhered to its SIP adoption procedures in Appendix C to the 2016 Douglas Second Maintenance Plan, which includes the notice of public hearing, the agenda for the December 9, 2016 public hearing, the sign-in sheet, the public hearing officer certification and transcript of the hearing, and the State's responsiveness summary.

On June 14, 2017, the 2016 Douglas Second Maintenance Plan was deemed complete by operation of law. *See* 40 CFR part 51, Appendix V, for the EPA's completeness criteria, which must be satisfied before formal review of the SIP.

#### B. Has the State met the substantive maintenance plan requirements?

1. Were the area's violations caused by a major point source of SO<sub>2</sub> Emissions that is no longer in operation?

As discussed above, the only major source of SO<sub>2</sub> emissions within the Douglas nonattainment area was the PDDRWS, which ceased operation in 1987. When the facility was in operation in 1985, the source emitted approximately 330,000 tons of SO<sub>2</sub>. The last recorded 24-hour or annual average exceedances of the primary NAAQS occurred in 1986, the last year of extensive monitoring. All but one monitor were removed before 1987 and all the remaining monitors owned and operated by Phelps Dodge and by the ADEQ near the PDDRWS were removed by 1988. The smelter operating permits

expired, the smelting equipment was removed over a period of years, and the smelter was completely dismantled by 1991. No new sources of SO<sub>2</sub> that are similar in size to the PDDRWS have located in the area. Thus, Douglas meets this criterion for review under the Seitz Memo.

2. Has the State met the requirements for second 10-year maintenance plans?

The 2016 Douglas Second Maintenance Plan covers the second 10 years of the 20-year maintenance period, as required by section 175A(b) of the CAA. As discussed below, the State has addressed the requirements in the Seitz Memo for emissions inventories, modeling, permitting of major new sources, and agreement to commence monitoring if a new major source locates in the Douglas area. We provide more details on each requirement and how the 2016 Douglas Second Maintenance Plan meets each requirement in the following sections.

##### a. Emissions Inventories

On December 14, 2001, the ADEQ submitted to the EPA the "Douglas Sulfur Dioxide State Implementation and Maintenance Plan" and request to redesignate the area to attainment ("2001 Douglas Maintenance Plan"). Following our request for additional information on emissions inventories and modeling, the ADEQ submitted a series of supplements to the EPA containing additional and revised technical information to support its redesignation request. The ADEQ's "Douglas Sulfur Dioxide Nonattainment Area State Implementation Plan, Emissions Inventory and Air Quality Dispersion Modeling Update, September 2005" ("2005 Supplement") included emissions inventories for sources in, and within 50 km of, the Douglas maintenance area for 1985 when

PDDRWS was operating and SO<sub>2</sub> NAAQS violations occurred.

In addition to reproducing emissions for 1985, the 2016 Douglas Second Maintenance Plan includes an emissions inventory representing current emissions for 2011 for sources in, and within 50 km of, the Douglas maintenance area. The ADEQ rolled the base 2011 inventory forward to generate an inventory for 2015, the final year of the first maintenance period, and similarly developed inventories for 2020, 2025, and 2030 to extend through the second 10-year maintenance period.

The emissions inventories in the 2016 Douglas Second Maintenance Plan (*see* Section 3 and technical support document in Appendix A) include estimates of SO<sub>2</sub> from all relevant source categories, which the plan divides among stationary, mobile, event-related, and area source categories. The ADEQ used the EPA's 2011 National Emissions Inventory and 2008 Inventario Nacional de Emisiones de México to identify point sources in, and within 50 km of, the maintenance area. The plan includes a description of current facility types, emitting equipment, permitted emissions limits, operating rates, and emissions calculation methods.

Table 1 presents a summary of actual SO<sub>2</sub> emissions for 1985 and 2011, and projected emissions for 2030 for sources in, and within 50-km of, the Douglas SO<sub>2</sub> maintenance area. When the smelter was in operation in 1985, SO<sub>2</sub> emissions exceeded 330,000 tons. The ADEQ identified 965 tons of SO<sub>2</sub> emissions in, and within 50-km of, the Douglas SO<sub>2</sub> maintenance area in 2011, and projected a maximum of 6,380 tons of SO<sub>2</sub> emissions in 2030 based on growth projections and facility PTEs. Point source emissions in 2011 are lower than projected emissions in 2030 because facilities have not operated at their maximum PTE in recent years.

TABLE 1—ACTUAL (1985 AND 2011) AND PROJECTED (2030) DOUGLAS MAINTENANCE AREA SO<sub>2</sub> EMISSIONS (IN tpy)<sup>a</sup>

	Source category	1985	2011	2030
Maintenance Area .....	Area, Mobile, and Event Sources .....	93.02	5.60	3.22
	Point .....	330,000.14	0.30	69.75
50-km buffer .....	Point (U.S.) .....	21.02	0.43	4,424.98
	Point (Mexico) .....	904.84	959.02	1,882.25
Total .....	.....	331,019.02	965.35	6,380.20

<sup>a</sup>Source: 2016 Douglas Second Maintenance Plan, Tables 7, 8, and 10.

Based on our review of the emissions inventories in the 2016 Douglas Second Maintenance Plan, including the supporting information in Appendix A, we conclude that the inventories are complete, accurate, and consistent with

applicable CAA provisions and the Seitz Memo.

##### b. Dispersion Modeling

Past EPA policy memoranda on SO<sub>2</sub> redesignations recommend dispersion

modeling to show that the NAAQS is met and will be maintained. The Seitz Memo recommends dispersion modeling of all point sources within 50 km of the nonattainment area boundary. Screening modeling can be used to

conservatively estimate each source's contribution to average SO<sub>2</sub> concentrations in the area.

For the 2005 Supplement to the 2001 Douglas Maintenance Plan, screening dispersion modeling was performed using the SCREEN3 model run with conservative assumptions about source parameters and meteorology. In the 2005 Supplement, the ADEQ identified seven existing stationary sources in, and within 50 km of, the Douglas nonattainment area. The modeling analysis for emissions projected to 2015 indicated that the impact of these sources would not exceed 61 percent and 64 percent of the 1971 annual and 24-hour SO<sub>2</sub> NAAQS, respectively.

The Seitz Memo also requires a modeling analysis that shows that the retired point sources were the dominant sources contributing to high SO<sub>2</sub> concentrations in the airshed. Since the emissions of non-smelter sources in the area had changed relatively little since the time that the smelter ceased operations, this same screening modeling was used to show that the smelter was the dominant source contributing to past high SO<sub>2</sub> concentrations.

For the 2016 Douglas Second Maintenance Plan, the ADEQ conducted a modeling analysis similar to the analysis for the 2005 Supplement. Five facilities for which SO<sub>2</sub> emissions were projected to total at least 0.5 tpy in any future year were modeled. The ADEQ used the conservative approach of assuming that each facility would emit the maximum allowable SO<sub>2</sub> in each future year. Other point sources were not modeled because of their small or negligible emissions; however, the collective impacts of such sources, in addition to area, mobile, and biogenic sources, were estimated based on SO<sub>2</sub> concentrations observed by ambient air monitors in neighboring counties.

The ADEQ used the EPA-recommended AERSCREEN dispersion model (version 15181) to estimate the SO<sub>2</sub> impacts of the five facilities on maintenance in the Douglas planning area.<sup>8</sup> AERSCREEN provides conservatively high concentration estimates by using worst case meteorology from among a range of meteorological conditions. The ADEQ used the conservative approach of summing the maximum AERSCREEN concentrations from each source,

effectively assuming all concentration maxima occur at the same time and place. The results of the AERSCREEN modeling indicate a cumulative potential impact from 2015 to 2030 of the existing sources of less than 61 percent and 77 percent of the 1971 annual and 24-hour SO<sub>2</sub> NAAQS, respectively. See 2016 Douglas Second Maintenance Plan, p. 41–43.

One way that the ADEQ modeling was potentially not conservative was in its assumption of simple terrain. Terrain with elevations above stack height, *i.e.*, “complex terrain,” can sometimes experience higher air quality impacts than simple terrain. While the Douglas Maintenance Area has low relief, it is not flat; it has a few isolated modest hills and elevations increase on its eastern edge towards the Perilla Mountains. To ensure that predicted SO<sub>2</sub> concentrations meet the NAAQS when terrain variability is considered, the EPA re-ran AERSCREEN for the sources with the largest maximum allowable emissions.<sup>9</sup> Using a conservative approach that assumes worst-case meteorology and that all facility maxima occur at the same time, while more realistically accounting for where each facility maxima occurs in space, the EPA modeled maximum 24-hour and annual SO<sub>2</sub> concentrations in the Douglas maintenance area that are below the NAAQS. The EPA's modeling results support the ADEQ's finding of continued attainment through 2030.

#### c. Treatment of New Sources of SO<sub>2</sub> Emissions

Section 172(c)(5) of the CAA requires New Source Review permits prior to the construction and operation of new major stationary sources and prior to major modifications at existing major stationary sources in nonattainment areas. However, in attainment areas, major sources and major modifications require PSD permits in accordance with section 165 of the CAA. The PSD program requires stationary sources to apply the best available control technology (BACT) and ensure that projects will not cause or contribute to a violation of a NAAQS or a maximum allowable increase.

The ADEQ has a PSD permitting program (*i.e.*, Arizona Administrative Code (A.A.C.) R18–2–406) that was established to preserve the air quality in areas where ambient standards have been met. The PSD program requires stationary sources to undergo preconstruction review, install BACT,

and conduct modeling demonstrating protection of the SO<sub>2</sub> NAAQS. The program applies to any major source or major modification in the Douglas area. New minor sources are required to obtain a permit under A.A.C. R18–2–334, Arizona's Minor New Source Review program. Updates to the State's PSD and Minor New Source Review programs were approved into the SIP on November 2, 2015 (80 FR 67319). Thus, the ADEQ's existing PSD program satisfies the preconstruction permit provision of the Seitz Memo.

#### d. Commitment To Resume Monitoring

The ADEQ commits to resume monitoring before any major source of SO<sub>2</sub> commences to operate in the Douglas maintenance area. See 2016 Douglas Second Maintenance Plan, p. 26. Moreover, the PSD permit program requires that permit applicants conduct preconstruction monitoring to identify baseline concentrations. Together, these commitments address the monitoring provision of the Seitz Memo.

### 3. Other CAA Requirements

#### a. Contingency Plan

As discussed above, section 175A of the CAA sets forth the statutory requirements for maintenance plans, and the Calcagni, Seitz, and Shaver memos cited above contain specific EPA guidance. The only maintenance plan element not covered by the Seitz Memo is the contingency provisions element. Section 175A(d) of the CAA requires that maintenance plans contain contingency provisions deemed necessary by the Administrator to assure that the state will promptly correct any violation of the standards that occurs after the redesignation of the area as an attainment area. The Calcagni Memo provides additional guidance, noting that although a state is not required to have fully-adopted contingency measures that will take effect without further action by the state for the maintenance plan to be approved, the maintenance plan should ensure that the contingency measures are adopted expeditiously once they are triggered. Specifically, the maintenance plan should clearly identify the measures to be adopted, include a schedule and procedure for adoption and implementation of the measures, and contain a specific time limit for action by the state. In addition, the state should identify specific indicators or triggers that will be used to determine when the contingency measures need to be implemented.

The 2016 Douglas Second Maintenance Plan includes the State's

<sup>8</sup> AERSCREEN has replaced SCREEN3 as the EPA's preferred screening model. See memorandum dated April 11, 2011, from Tyler Fox, Leader, U.S. EPA Air Quality Modeling Group to EPA Regional Modeling Contacts, Subject: AERSCREEN Released as EPA Recommended Screening Model, in the docket for today's action.

<sup>9</sup> A modeling technical support document, which is available in the docket to this action, provides a detailed discussion of our analysis and findings.

commitment to continue to track maintenance of the SO<sub>2</sub> NAAQS through updates to the emissions inventory. *See* 2016 Douglas Second Maintenance Plan, p. 44–45. Additionally, the ADEQ commits to reestablish an appropriate air quality monitoring network before any major source of SO<sub>2</sub> begins operations in the Douglas maintenance area. *See* 2016 Douglas Second Maintenance Plan, p. 26.

Since there are no remaining sources of SO<sub>2</sub> emissions that are similar in size to the PDDRWS, the primary cause of any potential future violations of the 1971 SO<sub>2</sub> NAAQS in the area would be from modified or new point sources. The ADEQ's current operating permit program places limits on SO<sub>2</sub> emissions from existing sources. Should a new facility be constructed in the Douglas area or an existing facility want to upgrade or increase SO<sub>2</sub> emissions, the facility would also be subject to PSD as required by the Calcagni Memo.

Furthermore, the ADEQ anticipates no relaxation of any implemented control measures used to attain and maintain the NAAQS, and they commit to submit to us any changes to rules or emission limits applicable to SO<sub>2</sub> sources. The ADEQ also commits to maintain the necessary resources to promptly correct any violations of the provisions contained in the 2016 Douglas Second Maintenance Plan.

Upon review of the contingency plan summarized above, we find that the ADEQ has established a contingency plan for the Douglas area that satisfies the requirements of the CAA section 175A(d) and the Calcagni Memo.

#### b. Transportation and General Conformity

Conformity is required under section 176(c) of the CAA to ensure that federal actions are consistent with ("conform to") the purpose of the SIP. Conformity to the purpose of the SIP means that federal activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or interim reductions and milestones. Conformity applies to areas that are designated nonattainment and to maintenance areas. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. and the Federal Transit Act ("transportation conformity"), and to other federally supported or funded projects ("general conformity").

Transportation conformity applies to projects that require Federal Highway Administration or Federal Transit

Administration funding. 40 CFR part 93 describes the requirements for federal actions related to transportation plans, programs, and projects to conform to the purposes of the SIP. Because the EPA does not consider SO<sub>2</sub> a transportation-related criteria pollutant, only the requirements related to general conformity apply to the Douglas area.<sup>10</sup>

Section 176(c)(4) of the CAA establishes the framework for general conformity. Besides ensuring that federal actions not covered by the transportation conformity rule will not interfere with the SIP, the general conformity regulations encourage consultation between the federal agency and the state or local air pollution control agencies before and during the environmental review process; public notification of and access to federal agency conformity determinations; and air quality review of individual federal actions.

Section 176(c) of the CAA requires the states to revise their SIPs to establish criteria and procedures to ensure that federally supported or funded projects in nonattainment and maintenance areas "conform" to the air quality planning goals in the applicable SIP. State implementation plan revisions intended to meet the conformity requirements in section 176(c) are referred to as "conformity SIPs." In 2005 Congress amended section 176(c), and under the amended conformity provisions, states are no longer required to submit conformity SIPs for general conformity, and the conformity SIP requirements for transportation conformity have been reduced to include only those relating to consultation, enforcement, and enforceability. *See* CAA section 176(c)(4)(E).

The EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of a redesignation request under section 107(d)(3)(E)(v) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. Because the Douglas area has already been redesignated for the 1971 SO<sub>2</sub> NAAQS, we believe it is reasonable to apply the interpretation of conformity SIP requirements as not applying for the purposes of redesignation to the approval of the Douglas second 10-year maintenance plan.

Criteria for making determinations and provisions for general conformity

are contained in A.A.C. R18–2–1438. Arizona has an approved general conformity SIP (64 FR 19916, April 23, 1999).

The ADEQ commits in the 2016 Douglas Second Maintenance Plan to review and comment, as appropriate, on any federal agency draft general conformity determination it receives consistent with 40 CFR 93.155 for any federal plans or actions in the Douglas area, although none are currently planned for the area. *See* 2016 Douglas Second Maintenance Plan, p. 20.

#### IV. Proposed Action and Request for Public Comment

The EPA is proposing to approve the Douglas second 10-year SO<sub>2</sub> maintenance plan under sections 110 and 175A of the CAA. As authorized in section 110(k)(3) of the Act, the EPA is proposing to approve the submitted SIP revision because it fulfills all relevant requirements.

We will accept comments from the public on this proposal for 30 days from the date of publication of this notice, and we will consider any relevant comments in taking final action on today's proposal.

#### 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, 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 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

<sup>10</sup> *See* 40 CFR 93.102(b)(1).

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 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).

#### List of Subjects in 40 CFR Part 52

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

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

Dated: February 2, 2018.

**Alexis Strauss,**

*Acting Regional Administrator, EPA Region IX.*

[FR Doc. 2018–03270 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2016–0749; FRL–9974–59–Region 10]

### Approval and Promulgation of State Implementation Plans; Alaska; Regional Haze Progress Report

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Alaska Regional Haze State Implementation Plan (SIP), submitted by the State of Alaska on March 10, 2016. Alaska submitted its Regional Haze Progress Report (“progress report” or “report”) and a negative declaration stating that further revision of the existing regional haze

SIP is not needed at this time. Alaska submitted both the progress report and the negative declaration in the form of implementation plan revisions as required by federal regulations. The progress report addresses the federal Regional Haze Rule (RHR) requirements under the Clean Air Act (CAA) to submit a report describing progress in achieving reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state’s existing plan addressing regional haze. We are also proposing to approve minor updates to the Enhanced Smoke Management Plan, Long-Term Strategy, and Commitment to Future 308 Plan Revision sections of the regional haze SIP, submitted concurrently with the progress report.

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

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–OAR–2016–0749 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency—Region 10, 1200 Sixth Ave., Seattle, WA 98101; telephone number: (206) 553–0256, email address: [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

### I. Background

Alaska submitted its initial regional haze SIP to the EPA on March 29, 2011,

for the first regional haze planning period ending in 2018, which the EPA approved on February 14, 2013.<sup>1</sup> Five years after submittal of the initial regional haze plan, states are required to submit progress reports that evaluate progress towards the RPGs for each mandatory Class I Federal area<sup>2</sup> (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state’s existing regional haze plan. 40 CFR 51.308(h). On March 10, 2016, the Alaska Department of Environmental Conservation (ADEC) submitted as a SIP revision a report on the progress made in the first implementation period towards the RPGs for Class I areas. EPA is proposing to approve Alaska’s progress report on the basis that it satisfies the requirements of 40 CFR 51.308. We also propose to find that Alaska’s progress report demonstrates that the state’s long-term strategy and emission control measures in the existing regional haze SIP are sufficient to enable Alaska to meet all established RPGs for 2018.

### II. Context for Understanding Alaska’s Progress Report

To facilitate a better understanding of Alaska’s progress report as well as the EPA’s evaluation of it, this section provides background on the regional haze program in Alaska.

#### A. Framework for Measuring Progress

The EPA has established a metric for determining visibility conditions at Class I areas referred to as the “deciview index,” which is measured in deciviews, as defined in 40 CFR 51.301. The deciview index is calculated using monitoring data collected from the Interagency Monitoring of Protected Visual Environments (IMPROVE) network monitors. Alaska has four Class I areas within its borders: Denali National Park and Preserve, Tuxedni National Wildlife Refuge, Simeonof Wilderness Area, and the Bering Sea Wilderness Area. In developing its initial regional haze SIP, Alaska determined, and the EPA in its approval agreed, that due to lack of proximity to other states, visibility in Alaska’s Class I areas is not affected by emission

<sup>1</sup> See 78 FR 10546.

<sup>2</sup> Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). Listed at 40 CFR part 81 subpart D.

sources in other states. Likewise, Alaska determined, and the EPA agreed, that emission sources in Alaska do not affect visibility in Class I areas in other states. Therefore, Alaska's progress report does not address visibility impacts from sources in other states or the visibility impact of Alaska sources on Class I areas in other states.

Under the RHR, a state's initial regional haze SIP must establish two RPGs for each of its Class I areas: One for the 20 percent least impaired days and one for the 20 percent most impaired days. The RPGs must provide for an improvement in visibility on the 20 percent most impaired days and ensure no degradation in visibility on the 20 percent least impaired days, as compared to visibility conditions during the baseline period. In establishing the RPGs, a state must consider the uniform rate of visibility improvement from the baseline to natural conditions in 2064 and the emission reductions measures needed to achieve it. Alaska set the RPGs for the Denali, Tuxedni, and Simeonof Class I areas. In setting the RPGs for these three Class I areas, Alaska used atmospheric air quality modeling based on projected emission reductions from control strategies in Alaska's regional haze SIP, as well as emission reductions expected to result from other federal, state and local air quality programs.

Alaska's fourth Class I area, the Bering Sea Wilderness Area, is extremely remote, with no IMPROVE monitoring site. Therefore, no RPG was established for this area in Alaska's regional haze SIP, and Alaska's progress report does not address visibility progress in this area.<sup>3</sup>

#### *B. Data Sources for Alaska's Progress Report*

Alaska relied on the Western Regional Air Partnership (WRAP) technical data and analyses in a report titled "Western Regional Air Partnership Regional Haze Rule Reasonable Progress Summary Report" (WRAP Report), dated June 28, 2013, included as an appendix in the progress report. The WRAP Report analyzes monitoring data collected in Alaska during the 2005–2009 period, and relies on emission data reported to the EPA's National Emissions Inventory (NEI) for 2008. Alaska then

supplemented the information in the WRAP report with more current 2009–2013 visibility data for its Class I areas as part of the progress report adopted by the state in 2015.

### **III. The EPA's Evaluation of Alaska's Progress Report**

This section describes the contents of Alaska's progress report and the EPA's evaluation of the report, as well as the EPA's evaluation of the determination of adequacy required by 40 CFR 51.308(h) and the requirement for state and Federal Land Manager coordination in 40 CFR 51.308(i).

#### *A. Status of Implementation of All Measures Included in the Regional Haze SIP*

In its progress report, Alaska provides a description of the control measures in the state's regional haze SIP that the state relied on to implement the regional haze program. According to the progress report, Alaska relied in its regional haze SIP upon, among other things, Best Available Retrofit Technology (BART) controls, its Prevention of Significant Deterioration/New Source Review permitting program, and its smoke management programs for agricultural and forestry burning to achieve the reasonable progress goals it established for its Class I areas. Alaska included a description of these programs in the progress report, which are summarized below.

##### **1. BART-Level Controls**

Alaska's regional haze SIP imposed BART-level controls on one source, the Golden Valley Electric Association's (GVEA) Healy Power Plant, Unit 1. The Healy Power Plant consists of two power generating units. Unit 1 is a nominal 25 megawatt (MW) coal-fired electric generating unit. The EPA approved the state's BART determination for this unit when we approved the Alaska regional haze SIP. Alaska determined that BART for Unit 1 included installation of Selective Non Catalytic Reduction (SNCR) to reduce nitrogen oxide (NO<sub>x</sub>) emissions. Accordingly, GVEA installed SNCR on Unit 1 in August of 2016. Unit 2, also referred to as the Healy Clean Coal Project, is a nominal 50 MW coal-fired electric generating unit not subject to BART.<sup>4</sup> At the time of Alaska's regional haze SIP submittal, Unit 2 had not operated since test runs were completed in the late 1990's. GVEA started burning coal at Unit 2 in August 2015; however, Unit 2 ceased operation due to operational problems in March 2016

and then again a few days after a startup attempt in November 2016.

On November 19, 2012, the United States and GVEA entered into a consent decree that specifies conditions on Unit 1 and Unit 2 at the Healy Power Plant, separate from the BART-level controls required by Alaska's regional haze SIP.<sup>5</sup> In particular, by December 31, 2022, GVEA must elect to either permanently retire Unit 1 by December 31, 2024, or install Selective Catalytic Reduction (SCR) on that unit to further reduce NO<sub>x</sub> emissions and begin operation of SCR by no later than December 31, 2024. In addition, the November 19, 2012, decree required GVEA to install SCR on Unit 2 by the later of September 30, 2015, or 24 months after it first fires coal, and to comply with specified emission limits. On August 8, 2017, the United States and GVEA filed amendments to the Consent Decree that require GVEA to install SCR on Unit 2 no later than 120 unit operating days after restart.<sup>6</sup> In its progress report, Alaska provided an assessment of, among other things, the emissions limits that will be achieved through installation of SCR on Unit 2 once it becomes operational.<sup>7</sup>

##### **2. Major New Source Review (NSR)/Prevention of Significant Deterioration (PSD)**

Alaska's progress report states that a key regulatory program for addressing visibility impairment from new or modified industrial stationary sources is the state's Major New Source Review (NSR)/Prevention of Significant Deterioration (PSD) rule. According to Alaska, this rule protects visibility in Class I areas from impacts from new or modified major stationary sources. Alaska's regulations (18 AAC 50 Article 3) and the Alaska SIP require visibility impact assessments and mitigation of emissions from new and modified major stationary sources through protection of air quality related values (AQRVs). AQRVs are scenic and environmentally related values that may be adversely affected by a change in air quality, including visibility, odor, noise, vegetation, and soils. These visibility requirements were approved by the EPA into the Alaska SIP in 1983.

##### **3. Smoke Management**

In its regional haze SIP, Alaska predicted that implementation of more

<sup>3</sup> As explained in the EPA's proposed rule to approve Alaska's RH SIP on February 24, 2012, the Bering Sea Wilderness Area is 350 miles southwest of Nome, Alaska and dominated by a harsh environment. There is no electricity in the Wilderness Area and the nearest major stationary sources are located hundreds of miles away. Accordingly, establishing and maintaining an IMPROVE monitoring site in the area is unnecessary and impractical. 77 FR 11022, 11028.

<sup>4</sup> 78 FR 10546, February 14, 2013.

<sup>5</sup> *United States v. Golden Valley Electric Association, Inc. and Alaska Industrial Development and Export Authority*, Civ. No. 4:12-cv-00025-RRB (D. Alaska).

<sup>6</sup> *United States v. Golden Valley Electric Association, Inc.*, Civ. No. 4:12-cv-00025-RRB (D. Alaska).

<sup>7</sup> Appendix III.K10–38, Comment Section C2.d.

effective smoke management techniques in its Enhanced Smoke Management Plan (ESMP) would mitigate impacts of planned prescribed burning on visibility in its Class I areas. ADEC developed and implemented an ESMP, and included this ESMP as part of the long-term strategy approved as part of the initial 2011 regional haze SIP. According to the progress report, Alaska continues to implement the ESMP to reduce the impact of prescribed burns on air quality. The progress report contains an assessment of the emissions reduced as a result of prescribed fires. Alaska concludes in the progress report that prescribed fires have reduced the emissions from the area burned to close to half of what they would have been if they had burned during a wildfire.

Additionally, On June 3, 2015, the Alaska Wildfire Coordinating Group approved a routine 5-year update to the Alaska ESMP, which ADEC submitted as a SIP revision along with the progress report. The 2015 revisions to the ESMP were generally minor in nature, such as updating the summary text to note the EPA's approval of the initial regional haze SIP and availability of additional electronic tools for submitting controlled burn applications developed since the original ESMP. The most substantive change to the ESMP was an update of Chapter 6.2 "Public Notification and Exposure Reduction" to reflect changes to Alaska's air quality episode and advisory regulations, which the EPA approved in a separate action on September 8, 2017 (82 FR 42457).

Alaska also submitted a minor update to the long-term strategy, with two sentences edited to reflect adoption of the revised ESMP in 2015. The EPA is proposing to approve this set of minor revisions to the SIP.

### B. Summary of Visibility Conditions

In addition to the evaluation of control measures, Alaska documented in the progress report the differences between the visibility conditions during the baseline period (2000–2004), the first progress period (2005–2009), and the most current five year averaging period (2009–2013) available at the time Alaska adopted the progress report in 2015. As part of our review, the EPA supplemented this information with current 2012–2016 data, as shown in Table 1.<sup>8</sup>

TABLE 1—ALASKA CLASS I AREA VISIBILITY CONDITIONS ON THE 20% MOST AND LEAST IMPAIRED DAYS

Class I area	Baseline (2002–2004) (dv) <sup>9</sup>	First progress period (2005–2009) (dv)	Progress report update (2009–2013) (dv)	Most recent data (2012–2016) (dv)	2018 Reasonable progress goal (dv)	Natural conditions (dv)
20% Most Impaired Days:						
Denali Headquarters .....	9.9	10.6	10.2	9.2	9.3	7.3
Trapper Creek (Denali) .....	11.6	11.9	10.7	10.0	10.9	8.4
Tuxedni .....	14.1	13.5	12.2	* 12.4	13.4	11.3
Simeonof .....	18.6	18.5	17.7	17.0	17.9	15.6
20% Least Impaired Days:						
Denali Headquarters .....	2.4	2.4	2.5	2.3	2.4	1.77
Trapper Creek (Denali) .....	3.5	3.9	3.8	3.4	3.5	2.71
Tuxedni .....	4.0	4.1	3.9	* 3.8	4.0	3.15
Simeonof .....	7.6	8.0	7.9	7.5	7.6	5.28

\* 2015–16 data not available, see discussion below.

Alaska's concluded that for the 20% most impaired days, five-year average visibility remained about the same at the Simeonof and Tuxedni sites for the first progress period (2005–2009) compared to baseline conditions, but improved for the 2009–2013 averaging period. At the Denali Headquarters site, the visibility decreased during the first progress period compared to the baseline period, but showed an improvement in visibility for the 2009–2013 period. This improvement continued in the 2012–2016 period with the Denali Headquarters site now meeting the 2018 RPG. The Trapper Creek site showed a small visibility decrease during the first progress period compared to baseline conditions, but a visibility improvement during the 2009–2013 and 2012–2016 periods. Overall, visibility conditions for Denali Headquarters, Trapper Creek, Simeonof,

and Tuxedni are all meeting 2018 RPGs for the 20% most impaired days based on 2012–2016 data. Regarding the visibility conditions on the 20% least impaired days, the WRAP performed a statistical trends analysis for the period 2002–2009, with only the 2005–2009 Trapper Creek monitoring data showing a statistically significant increase from the baseline.<sup>10</sup> The most current 2012–2016 data shows all monitors meeting the 2018 RPGs for the 20% least impaired days.

Regarding visibility monitoring, Alaska intends to continue relying on the IMPROVE network sites that represent the state's Class I areas for complying with the monitoring requirement in the RHR. As described in the progress report, the Tuxedni monitor discontinued operation in December 2014, when the property owner and site operator notified the

U.S. Fish and Wildlife Service that he would no longer be able to service the site. The progress report also noted efforts by the U.S. National Park Service and U.S. Fish and Wildlife Service to establish a new site across the Cook Inlet, which they succeeded in doing roughly 3 miles south of the community of Ninilchik.<sup>11</sup> EPA finds that Alaska has adequately reviewed its visibility monitoring strategy, and proposes to determine that the strategy meets the regulatory requirements and that no modifications to the monitoring strategy are needed at this time.

### C. Summary of Emissions Reductions

Alaska's progress report summarizes the emissions reductions attributable to anthropogenic sources and attributable to managing wildfire emissions. Regarding anthropogenic sources, the progress report summarizes reductions

<sup>8</sup> See "visibility data trends" included in the docket.

<sup>9</sup> For several Alaska Class I area sites, monitoring began in late 2001; therefore, only three complete years of monitoring data, 2002–2004, define their

baselines. See page III.K.4–2 of the 2011 regional haze SIP.

<sup>10</sup> Using an 85% confidence interval. Please see the WRAP supporting documentation included as

Appendix D of the progress report for a full site by site analysis.

<sup>11</sup> See 2016 Air Quality Monitoring Plan, included in the docket for this action.

in sulfur dioxide (SO<sub>2</sub>), NO<sub>x</sub>, and PM<sub>2.5</sub> emissions from implementation of the measures discussed above, as well as other emission reduction programs. Statewide anthropogenic NO<sub>x</sub> and SO<sub>2</sub> emissions showed a downward trend between 2008 and 2013. These reductions, according to the progress report, are primarily attributable to (1) replacement of electric generating units, and (2) federal motor vehicle requirements.

Regarding the replacement of electric generating units, Alaska concludes that some of the reductions in NO<sub>x</sub> and SO<sub>2</sub> point source emissions during the 2009–2013 period and beyond resulted from electricity generation sources installing cleaner generation units. Over the last several years, power plant owners and operators in south central Alaska have brought new generation facilities online and are reducing their use of older, more polluting equipment; typically, these older units have become reserves. Specifically, Alaska described three recent, significant changes made to the electricity generation sector in south central Alaska:

- Anchorage Municipal Light and Power's George Sullivan Plant Two's unit 1, a gas turbine generator rated for 480 million British thermal units (BTU)/hour, was put into limited operation as a reserve unit, resulting in reduced emissions from this unit.

- Chugach Electric Association's Beluga plant's units 3 and 5, both rated for 940 million BTU/hour, were put on reserve status, resulting in reduced emissions from these units.

- In 2014, Alaska Electricity and Energy Cooperative's Nikiski plant added a steamer unit to improve efficiency, reducing overall fuel requirements within the grid and thus reducing emissions from this plant.

Overall, Alaska concluded that NO<sub>x</sub> emissions show a downward trend for the 2009–2013 period, from 43,896 to 41,930 tons per year. Similarly, the SO<sub>2</sub> annual emissions generally decreased with the exception of 2009, when emissions were noticeably higher. Alaska concluded that the SO<sub>2</sub> increase during 2009 was primarily driven by operational changes at the North Pole Power Plant. The quantity of fuel combusted at this one power plant dropped by almost half from 2009 to 2010. Alaska also determined that over the same period, statewide PM<sub>10</sub> emissions increased from 1,002 to 1,115 tons per year.

In addition, the progress report includes a discussion of control measures to attain and maintain the particulate matter national ambient air quality standards, such as wood smoke reduction programs for Eagle River, the Mendenhall Valley, and the Fairbanks North Star Borough. Current control measures in Fairbanks include an opacity limit and mandatory curtailment program for solid-fuel fired heating devices, emission standards for new wood-fired heating devices installed in the area, a requirement to burn only dry wood in wood heaters, a woodstove changeout program, a prohibition on open burning, and public education, among other requirements.

Alaska noted in its progress report that these control measures could potentially reduce overall area source emissions inventories in the future.

In addition to reductions of emissions from anthropogenic sources, the progress report describes emissions reductions attributable to wildfire management. Specifically, the report states that in recent years, prescribed fires have reduced the emissions from the area burned by close to half of what they would have been if they had burned during a wildfire. According to the progress report, over the period of 2007 to 2013, hundreds of tons of PM<sub>2.5</sub> emissions were averted by using prescribed burning to prevent wildfires.

The progress report also contains an analysis tracking the change in statewide emissions between 2002 and 2008. The 2002 inventory was used in the development of the original Alaska regional haze SIP. At the time Alaska prepared the progress report, the 2008 inventory was the most recent year that complete emission inventories were available for the state. Alaska notes that the differences between the 2002 and 2008 inventories for some source categories do not accurately reflect a change in emissions, as a number of methodology changes and enhancements have occurred between the developments of the individual inventories, as described in more detail below. Summaries from the progress report are included in Tables 2 and 3. A more detailed description of each inventory is provided in section 3.2.1 of Appendix A to the progress report.

TABLE 2—SULFUR DIOXIDE, NITROGEN OXIDES, AND AMMONIA EMISSIONS

[Tons/year]

	SO <sub>2</sub>		NO <sub>x</sub>		Ammonia	
	2002	2008	2002	2008	2002	2008
Point .....	6,813	5,039	74,471	68,564	580	178
Area .....	1,872	3,365	14,742	19,404	0	356
On-Road Mobile .....	324	490	7,077	15,696	307	230
Off-Road Mobile .....	49	395	4,111	3,387	8	7
Aviation .....	335	(*)	3,265	(*)	6	(*)
Commercial Marine .....	4,979	5,180	11,258	24,370	5	11
Total Anthropogenic .....	* 14,037	* 14,469	* 111,659	* 131,421	* 900	* 782
Fire .....	34,304	4,482	125,110	16,344	26,233	3,417
Total .....	* 48,341	* 18,951	* 236,769	* 147,765	* 27,133	* 4,199

\* Sums and differences do not include aviation emissions, as 2008 inventory totals were not available from this source for comparison purposes.

TABLE 3—VOLATILE ORGANIC COMPOUND, FINE SOIL, AND COARSE MASS EMISSIONS  
[Tons/year]

	VOC		Fine soil		Coarse mass	
	2002	2008	2002	2008	2002	2008
Point .....	5,697	4,582	1,237	563	4,696	2,392
Area .....	128,271	10,890	30,636	2,289	76,349	121
On-Road Mobile .....	7,173	6,740	158	1,194	46	164
Off-Road Mobile .....	7,585	19,094	392	670	24	46
Aviation .....	1,566	(*)	667	(*)	20	(*)
Commercial Marine .....	356	609	643	1,114	32	64
Total Anthropogenic .....	* 149,082	* 41,915	* 33,066	* 5,830	* 81,147	* 2,787
Fire .....	274,436	35,761	478,057	63,330	79,346	10,495
Total .....	* 423,518	* 77,676	* 511,123	* 69,160	* 160,493	* 13,282

\* Sums and differences do not include aviation emissions, as 2008 inventory totals were not available from this source for comparison purposes.

Regarding emissions inventories, Alaska made the following observations:

- Fire emission inventory estimates decreased. Note that these differences are not necessarily reflective of changes in monitored data, as the five-year baseline period is represented by a 2000–2004 average of fire emissions developed by the WRAP, and the five-year progress period is represented by fires that occurred in 2008.

- Point source inventories showed decreases for all species.

- Area source inventories showed increases in SO<sub>2</sub> and NO<sub>x</sub>, but large decreases in volatile organic compounds (VOCs), fine soil, and coarse mass.

- On-road mobile source inventory comparisons showed increases in SO<sub>2</sub>, NO<sub>x</sub>, fine soil, and coarse mass, but a decrease in VOCs. Off-road mobile source inventories showed decreases in NO<sub>x</sub>, but increases in VOCs. (See section 6.1.2 of Appendix C.)

- Commercial marine sources showed large increases in NO<sub>x</sub> inventories, and only small changes in other parameters. Alaska attributed this increase, at least in part, to different emission inventory methodologies.

Alaska also notes that during high fire years, emissions from wildland fires can make up a significant portion of the state's overall emissions for some pollutants. Further, wildfire activity varies greatly from year to year, and unlike other emission sources, the locations vary from year to year. Alaska also notes that one contributing source of anthropogenic emissions not included in the emissions inventory is international anthropogenic emissions. According to the progress report, Alaska receives a significant amount of globally transported pollution, particularly from Asia and Russia. Continued industrial growth in these areas is likely to increase emissions of pollutants that

contribute to regional haze in Alaska, although the extent of this contribution to haze in Alaska has not been determined due to lack of accurate international emission inventories.

#### *D. Determination of Adequacy (40 CFR 51.308(h))*

In accordance with 40 CFR 51.308(h)(1), “If the state determines [at the time the five-year progress report is submitted] that the existing implementation plan requires no further substantive revision at this time in order to achieve established goals for visibility improvement and emissions reductions, the state must provide to the Administrator a negative declaration that further revision of the existing implementation plan is not needed at this time.” Within the progress report, the State of Alaska provided a negative declaration stating that further revision of the existing implementation plan is not needed. The basis for the state's negative declaration is the finding that visibility on the 20% most impaired days has improved, and 2018 RPGs attained, at all Alaska IMPROVE monitors, except for the Denali Headquarters monitor, which shows a slight decrease in visibility for the current period compared to the baseline due to smoke from wildfires in Alaska in 2009.

Accordingly, the EPA proposes to find that Alaska adequately addressed the requirements in 40 CFR 51.308(h) in its determination that the existing Alaska regional haze SIP requires no substantive revisions at this time to achieve the established RPGs for Alaska Class I areas. We note in particular that, based on the visibility conditions for the most recent five-year period (2012–2016), Alaska is meeting 2018 RPGs at all Alaska IMPROVE monitors.

#### *E. Consultation With Federal Land Managers (40 CFR 51.308(i))*

In accordance with 40 CFR 51.308(i), the state must provide the Federal Land Managers (FLMs) with an opportunity for consultation, in person and at least 60 days prior to holding any public hearings on an implementation plan (or plan revision). The state must also include a description of how it addressed any comments provided by the FLMs. The State of Alaska provided an opportunity for FLM consultation at least 60 days prior to holding any public hearing on a draft progress report. This progress report was submitted to the FLMs on April 27, 2015, for review and comment. Comments were received from the FLMs on June 30, 2015. The FLM comments and state responses are presented in the progress report. In accordance with 40 CFR 51.308(i)(4), Alaska's progress report reaffirms the state's commitment to the regional haze SIP procedures for continuing consultation between the State of Alaska and FLMs on, among other things, the implementation of Alaska's regional haze SIP.

The EPA proposes to find that Alaska has addressed the requirements in 40 CFR 51.308(i) to provide the FLMs with an opportunity for consultation in person and at least 60 days prior to a public hearing on the progress report, included a description of how it addressed any comments from the FLMs, and provided a commitment for continuing consultation between the state and the FLMs. FLM comments and ADEC responses are provided in section E of the progress report.

#### **IV. Additional Revision to the Regional Haze SIP To Reflect Adoption of Progress Report**

Concurrent with the progress report, Alaska submitted an update to the



“Commitment to Future 308 Plan Revisions” chapter of the regional haze SIP. The revision notes the adoption and submission of the progress report. The EPA is proposing to approve this revision to the regional haze SIP.

#### V. The EPA’s Proposed Action

The EPA is proposing to approve the Alaska Regional Haze Progress Report submitted to the EPA on March 10, 2016, as meeting the applicable requirements of the CAA and RHR, as set forth in 40 CFR 51.308(g). The EPA proposes to find that the existing regional haze SIP is adequate to meet the state’s visibility goals and requires no substantive revision at this time, as set forth in 40 CFR 51.308(h). We propose to find that Alaska fulfilled the requirements in 40 CFR 51.308(i) regarding state coordination with FLMs. Lastly, we propose to approve updates to the Enhanced Smoke Management Plan, Long-Term Strategy, and Commitment to Future 308 Plan Revision sections of the regional haze SIP, submitted concurrently with the Alaska Regional Haze Progress Report.

#### 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 CAA and applicable Federal regulations.<sup>12</sup> 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 proposed action merely approves state law as meeting Federal requirements, and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because actions such as 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 this rulemaking does not involve technical standards; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

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

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

Dated: February 7, 2018.

**Chris Hladick,**

*Regional Administrator, Region 10.*

[FR Doc. 2018–03269 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

<sup>12</sup> 42 U.S.C. 7410(k); 40 CFR 52.02(a).

# Notices

Federal Register

Vol. 83, No. 33

Friday, February 16, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

February 13, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by March 19, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs

potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

### Animal and Plant Health Inspection Service

*Title:* Approval of Laboratories for Conducting Aquatic Animal Tests for Export Health Certificates.

*OMB Control Number:* 0579-0429.

*Summary of Collection:* The Animal Health Protection Act (AHPA, 7 U.S.C. 8301 *et seq.*) is the primary Federal law governing the protection of animal health. The AHPA gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. While APHIS does not currently require the approval or certification of laboratories that conduct disease tests for the export of aquaculture animals, some countries that import these animals from the United States require them to be tested for certain diseases and the test results recorded on the export certificates. In addition, the test results must originate from a laboratory approved by the competent authority of the exporting country, which is APHIS in this case. State, university, and private laboratories can voluntarily seek APHIS approval of individual diagnostic methods. Though APHIS does not have regulations for the approval or certification of laboratories that conduct tests for the export of aquaculture animals, APHIS provides this approval as a service to U.S. exporters who export aquaculture animals to countries that require this certification.

*Need and Use of the Information:* The approval of laboratories to conduct tests for the export of aquaculture animals requires the use of certain information collection activities including notification of intent to request approval, application for APHIS approval, protocol statement, submission and recordkeeping of sample copies of diagnostic reports, quality assurance/control plans and their recordkeeping, notification of proposed changes to assay protocols, recordkeeping of supporting assay

documentation, and request for removal of approved status.

*Description of Respondents:* Business or other for-profits; State, Local or Tribal Government.

*Number of Respondents:* 12.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 62,000.

### Animal and Plant Health Inspection Service

*Title:* National Veterinary Services Laboratories Request Forms.

*OMB Control Number:* 0579-0430.

*Summary of Collection:* The Animal Health Protection Act (7 U.S.C. 8301-8317) provides the Secretary of Agriculture broad authority to prohibit or restrict the importation or entry of any animal, article, or means of conveyance, if USDA determines that the prohibition or restriction is necessary to prevent the introduction into or spread with the United States of any pest or disease of livestock. In connection with this disease prevention mission, the Animal and Plant Health Inspection Service (APHIS) National Veterinary Services Laboratories (NVSL) safeguard U.S. animal health and contribute to public health by ensuring that timely and accurate laboratory support is provided by their nationwide animal health diagnostic system.

*Need and Use of the Information:* APHIS will collect information using VS Form 4-9, Request for Reagents or Supplies; VS Form 4-10, NVSL Customer Contact Update; and VS Form 4-11, Request for Training at NVSL.

These forms are used to safeguard the U.S. animal population from pests and diseases. If the information was collected less frequently or not collected, APHIS would be unable to process reagent orders or provide training that customer's desire.

*Description of Respondents:* Foreign Federal Government; Individuals or households; Businesses; State, Local or Tribal Government.

*Number of Respondents:* 652.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 692.

**Ruth Brown,**

*Departmental Information Collection  
Clearance Officer.*

[FR Doc. 2018-03256 Filed 2-15-18; 8:45 am]

**BILLING CODE 3410-34-P**

**DEPARTMENT OF AGRICULTURE****Food Safety and Inspection Service****[Docket No. FSIS-2017-0053]****Codex Alimentarius Commission: Meeting of the Codex Committee on Residues of Veterinary Drugs in Food****AGENCY:** Office of the Deputy Under Secretary for Food Safety, USDA.**ACTION:** Notice of public meeting and request for comments.

**SUMMARY:** The Office of the Deputy Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), are sponsoring a public meeting on April 4, 2018. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 24th Session of the Codex Alimentarius Commission's (Codex's) Committee on Residues of Veterinary Drugs in Foods (CCRVDF), taking place in Chicago, Illinois, April 23-27, 2018. The Deputy Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 24th Session of the CCRVDF and to address items on the agenda.

**DATES:** The public meeting is scheduled for Wednesday, April 4, 2018, from 1:00 p.m. to 4:00 p.m.

**ADDRESSES:** The public meeting will take place at the USDA, Jamie L. Whitten Building, 1400 Independence Avenue SW, Room 107-A, Washington, DC 20250.

Documents related to the 24th Session of the CCRVDF will be accessible via the internet at the following address: <http://www.codexalimentarius.org/meetings-reports/en/>.

Brandi Robinson, U.S. Delegate to the 24th Session of the CCRVDF, invites U.S. interested parties to submit their comments electronically to the following email address: [Brandi.Robinson@fda.hhs.gov](mailto:Brandi.Robinson@fda.hhs.gov).

**Call-in-Number**

If you wish to participate in the public meeting for the 24th Session of the CCRVDF by conference call, please use the following call-in-number:

**Call-in-Number:** 1-888-844-9904.

The participant code will be posted on the following web page: <http://www.fsis.usda.gov/wps/portal/ffsis/topics/international-affairs/us-codex-alimentarius/public-meetings>.

**Registration**

Attendees may register to attend the public meeting by emailing [uscodex@fsis.usda.gov](mailto:uscodex@fsis.usda.gov) by April 2, 2018. Early registration is encouraged as it will expedite entry into the building. The meeting will be held in a Federal building. Attendees should bring photo identification and plan for adequate time to pass through the security screening systems. Persons who are not able to attend the meeting in person, but wish to participate, may do so by phone.

**FOR FURTHER INFORMATION ABOUT THE 24TH SESSION OF THE CCRVDF CONTACT:** Brandi Robinson, International Program Manager, Office of New Animal Drug Evaluation, Center for Veterinary Medicine, FDA, 7500 Standish Place, HFV-100, Rockville, MD 20855, Telephone: (240) 402-0645, Email: [Brandi.Robinson@fda.hhs.gov](mailto:Brandi.Robinson@fda.hhs.gov).

**FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT:** Kenneth Lowery, U.S. Codex Office, 1400 Independence Avenue SW, South Agriculture Building, Room 4861, Washington, DC 20250. Telephone: (202) 690-4042, Fax: (202) 720-3157, Email: [Kenneth.Lowery@fsis.usda.gov](mailto:Kenneth.Lowery@fsis.usda.gov).

**SUPPLEMENTARY INFORMATION:****Background**

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization (FAO/WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The CCRVDF is responsible for determining priorities for the consideration of residues of veterinary drugs in foods, recommending maximum levels of such substances, developing codes of practice as may be required, and considering methods of sampling and analysis for the determination of veterinary drug residues in foods.

The Committee is hosted by the United States.

**Issues To Be Discussed at the Public Meeting**

The following items on the Agenda for the 24th Session of the CCRVDF will be discussed during the public meeting:

- Matters referred by the Codex Alimentarius Commission and other subsidiary bodies;
- Matters of interest arising from the FAO/WHO and from the 85th Meeting

of the Joint FAO/WHO Expert Committee on Food Additives (JECFA);

- Report of the World Organisation for Animal Health activities, including harmonization of technical requirements for registration of veterinary medicinal products (VICH);
  - Draft Risk Management Recommendation for gentian violet;
  - Proposed draft maximum residue limits (MRLs) for zilpaterol hydrochloride (cattle fat, kidney, liver, muscle) (81st JECFA) at Step 4;
  - Proposed draft MRLs for amoxicillin (finfish fillet, muscle); ampicillin (finfish fillet, muscle); flumethrin (honey), lufenuron (salmon and trout fillet), monepantel (cattle fat, kidney, liver, muscle) (85th JECFA) at Step 3;
  - Discussion paper on MRLs for groups of fish species;
  - Discussion paper on edible offal tissues (possible definition and edible offal tissues of interest in international trade);
  - Discussion paper on the revision of the criteria for the use of multi-residue analytical methods for the determination and identification of veterinary drugs in foods in Codex;
  - Discussion paper on the evaluation of the rationale for the decline in new compounds to be included in the CCRVDF Priority List for evaluation by JECFA;
  - Database on countries' need for MRLs;
  - Draft priority list of veterinary drugs requiring evaluation or re-evaluation by JECFA; and
  - Other business and future work.
- Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat before the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

**Public Meeting**

At the April 4, 2018, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 24th Session of the CCRVDF, Brandi Robinson (see **ADDRESSES**). Written comments should state that they relate to the activities of the 24th Session of the CCRVDF.

**Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS

web page located at: <http://www.fsis.usda.gov/federal-register>.

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

#### USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

#### How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at [http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain\\_combined\\_6\\_8\\_12.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf), or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410, Fax: (202) 690-7442, Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Done at Washington, DC, on February 13, 2018.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2018-03257 Filed 2-15-18; 8:45 am]

BILLING CODE 3410-DM-P

#### COMMISSION ON CIVIL RIGHTS

##### Notice of Public Meeting of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

**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 Ohio Advisory Committee (Committee) will hold a meeting via web conference on Friday March 2, 2018, from 11:30am-1:00 p.m. EST for the purpose of hearing public testimony on voting rights in the state.

**DATES:** The meeting will be held on Friday, March 2, 2018, at 11:30 a.m. EST.

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnaroski, DFO, at [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov) or 312-353-8311.

#### SUPPLEMENTARY INFORMATION:

*Public Call Information: (audio only)*  
Dial: 877-741-4240, Conference ID: 7829359.

*Web Access Information: (visual only)*  
The online portion of the meeting may be accessed through the following link: <https://cc.readytalk.com/r/kyos4gwvgpp5&eom>.

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 follow 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 Office, 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 Carolyn Allen at [callen@usccr.gov](mailto:callen@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit Office 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](http://www.facadatabase.gov) under the Commission on Civil Rights, Ohio Advisory Committee link (<http://www.facadatabase.gov/committee/meetings.aspx?cid=268>). 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 Office at the above email or street address.

This is the first in a series of public meetings the Committee will hold on this topic. Please consult the **Federal Register** or contact the Regional Programs Unit for additional information on other upcoming meetings.

#### Agenda

Welcome and Roll Call  
Panel Presentations: Voting Rights in Ohio  
Public Comment  
Adjournment

Dated: February 13, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018-03285 Filed 2-15-18; 8:45 am]

BILLING P

#### COMMISSION ON CIVIL RIGHTS

##### Notice of Public Meetings of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights

**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 Arkansas Advisory Committee (Committee) will hold a meeting on Friday, March 9, 2018 at 12 p.m. Central time. The Committee will discuss approval of a project proposal to study civil rights and criminal justice in the state.

**DATES:** The meeting will take place on Friday, March 9, 2018 at 12 p.m. Central.

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnarowski, DFO, at [mwojnarowski@usccr.gov](mailto:mwojnarowski@usccr.gov) or 312-353-8311.

**SUPPLEMENTARY INFORMATION:**

*Public Call Information:* Dial: 877-548-7911, Conference ID: 2238022

Members of the public can listen to these discussions. These meetings are available to the public through the above call in numbers. Any interested member of the public may call this number and listen to 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](mailto: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](http://www.facadatabase.gov) under the Commission on Civil Rights, Arkansas Advisory Committee link (<https://www.facadatabase.gov/committee/meetings.aspx?cid=236>). 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 Roll Call  
Civil Rights in Arkansas: Criminal Justice  
Future Plans and Actions  
Public Comment  
Adjournment

Dated: February 13, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018-03283 Filed 2-15-18; 8:45 am]

**BILLING CODE P**

**COMMISSION ON CIVIL RIGHTS**

**Notice of Public Meeting of the West Virginia Advisory Committee**

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the West Virginia Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on Friday, March 2, 2018. The purpose of the meeting is to receive status reports from the Planning Workgroup on recommendations for examining the Committee's examination of the collateral consequences of felony convictions in WV and to make decisions, as needed.

**DATES:** Friday, March 2, 2018, at 12:00 p.m. EST.

*Public Call-In Information:* Conference call-in number: 1-877-604-9665 and conference call 5788080.

**FOR FURTHER INFORMATION CONTACT:** Ivy Davis at [ero@usccr.gov](mailto:ero@usccr.gov) or by phone at 202-376-7533.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1-877-604-9665 and conference call 5788080.

Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1-800-977-8339 and providing the operator with the toll-free conference call-in number: 1-877-604-9665 and conference call 5788080.

Members of the public are invited to submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376-7548, or emailed to Corrine Sanders at [ero@usccr.gov](mailto:ero@usccr.gov). Persons who desire additional information may contact the Eastern Regional Office at (202) 376-7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://database.faca.gov/committee/meetings.aspx?cid=281>, click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, [www.usccr.gov](http://www.usccr.gov), or to contact the Eastern Regional Office at the above phone numbers, email or street address.

*Agenda:* Friday, March 2, 2018, 12:00 p.m. EST

- Rollcall
- Project Planning: Collateral Consequences
- Update from Committee Workgroups
- Next Steps
- Other Business
- Adjourn

Dated: February 12, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018-03194 Filed 2-15-18; 8:45 am]

**BILLING CODE 6335-01-P**

**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 Monday, March 5, 2018 from 12–1:30 pm Central time. The Committee will hear testimony from policy experts in the state as part of their current study on civil rights and school funding.

**DATES:** The meeting will take place on Monday, March 5, 2018 at 12pm Central time, for a duration of 90 minutes.

**FOR FURTHER INFORMATION CONTACT:**

Melissa Wojnaroski, DFO, at [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov) or 312–353–8311.

**SUPPLEMENTARY INFORMATION:**

*Public Call Information: (audio only)*  
Dial: 877–741–4240, Conference ID: 9385776.

*Web Access Information: (visual only)*  
<https://cc.readytalk.com/r/x754spq2wlk4&eom>.

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](mailto: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](http://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 13, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018–03284 Filed 2–15–18; 8:45 am]

**BILLING CODE P**

**COMMISSION ON CIVIL RIGHTS****Notice of Public Meeting of the Indiana Advisory Committee To Hear Testimony Regarding Voting Rights in Indiana**

**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 Indiana Advisory Committee (Committee) will hold a meeting on Friday, March 2, 2018, from 9:00 a.m.–5:00 p.m. EST. The Committee will hear testimony regarding voting rights in the state.

**DATES:** The meeting will be held on Friday March 2, 2018, from 9:00 a.m.–5:00 p.m. EST.

**ADDRESSES:** Ivy Tech Community College Event Center, 2820 North

Meridian Street in Indianapolis, IN, 46208.

**FOR FURTHER INFORMATION CONTACT:**

Melissa Wojnaroski, DFO, at [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov) or 312–353–8311.

**SUPPLEMENTARY INFORMATION:** This meeting is open to the public. Members of the public are invited to make statements during the open comment period beginning at 4:30 p.m. In addition, members of the public may 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 Carolyn Allen at [callen@usccr.gov](mailto:callen@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and following the meeting at <https://database.faca.gov/committee/meetings.aspx?cid=247> and following the links for “Meeting Details” and then “Documents.” Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. 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 (subject to change based on panelist confirmation and public participation needs):*

Opening Remarks and Introductions (9:00 a.m.–9:15a.m.)  
Panel 1: Legal (9:15 a.m.–10:30 a.m.)  
Panel 2: Advocacy (10:45 a.m.–12:00 p.m.)  
Break (12:00–1:00 p.m.)  
Panel 3: Academic (1:00 p.m.–2:15 p.m.)  
Panel 4: Government (2:30 p.m.–3:30 p.m.)  
Panel 5: Political Parties (3:45 p.m.–4:30 p.m.)  
Open Forum (4:30 p.m.–5:00 p.m.)  
Closing Remarks (5:00 p.m.)

Dated: February 12, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018–03193 Filed 2–15–18; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-920]

**Lightweight Thermal Paper From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On December 1, 2017, the Department of Commerce (Commerce) published in the **Federal Register** the preliminary results of the 2015–2016 administrative review (AR) of the antidumping duty (AD) order on lightweight thermal paper (LWTP) from the People's Republic of China (China), covering the period of review (POR) November 1, 2015, through October 31, 2016. We received no comments or requests for a hearing. Therefore, we have made no changes for these final results and continue to find that none of the companies under review established eligibility for a separate rate status and, thus, are part of the China-wide entity.

**DATES:** Applicable February 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Alex Rosen, 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) 482–7814.

**SUPPLEMENTARY INFORMATION:****Background**

On December 1, 2017, Commerce published the *Preliminary Results* and gave interested parties an opportunity to comment.<sup>1</sup> Commerce received no comments. Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). 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 April 3, 2018.<sup>2</sup>

<sup>1</sup> See *Lightweight Thermal Paper from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016*, 82 FR 56951 (December 1, 2017) (*Preliminary Results*).

<sup>2</sup> 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,

**Scope of the Order**

The merchandise covered by this order includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m<sup>2</sup>) (with a tolerance of  $\pm 4.0$  g/m<sup>2</sup>) or less; irrespective of dimensions;<sup>3</sup> with or without a base coat<sup>4</sup> on one or both sides; with thermal active coating(s)<sup>5</sup> on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;<sup>6</sup> and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3703.10.60, 4811.59.20, 4811.90.8040, 4811.90.9090, 4820.10.20, 4823.40.00, 4811.90.8030, 4811.90.8050, 4811.90.9030, and 4811.90.9050.<sup>7</sup> Although HTSUS subheadings are provided for convenience and customs

“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.

<sup>3</sup> LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo and converted rolls (as well as LWTP in any other form, presentation, or dimension) are covered by the scope of these orders.

<sup>4</sup> A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

<sup>5</sup> A thermal active coating is typically made of sensitizer, dye, and co-reactant.

<sup>6</sup> A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

<sup>7</sup> HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for “other” including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for “other,” including LWTP).

<sup>8</sup> As of January 1, 2009, the International Trade Commission deleted HTSUS subheadings 4811.90.8040 and 4811.90.9090 and added HTSUS subheadings 4811.90.8030, 4811.90.8050, 4811.90.9030, and 4811.90.9050 to the *Harmonized Tariff Schedule of the United States (2009)*. See *Harmonized Tariff Schedule of the United States (2009)*, available at [www.usitc.gov](http://www.usitc.gov). These HTSUS subheadings were added to the scope of the order in LWTP's LTFV investigation.

purposes, the written description of the scope of this order is dispositive.

**Final Results of the Review**

Commerce preliminarily determined that none of the companies under review, Shenzhen Formers Printing Co., Ltd (Formers), Sailing International Ltd (Sailing), and Suzhou Xiandai Paper Production Co (Xiandai) demonstrated eligibility for separate rate status and, thus, found them to be part of the China-wide entity.<sup>9</sup> As there are no changes from, or comments upon, the *Preliminary Results*, Commerce finds that there is no reason to modify its analysis. As a result, for these final results, we are continuing to treat these exporters as part of the China-wide entity and subject to the China-wide rate. Accordingly, no decision memorandum accompanies this **Federal Register** notice. For further details of the issues addressed in this proceeding, see *Preliminary Results* and the accompanying Preliminary Decision Memorandum. In these final results of review, we continue to treat Formers, Sailing, and Xiandai as part of the China-wide entity. The China-wide entity rate is 115.29 percent, as determined in the *Order*.<sup>10</sup>

**China-Wide Entity**

Commerce's policy regarding the conditional review of the China-wide entity applies to this administrative review.<sup>11</sup> 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 this review, the entity is not under review and the entity's rate is not subject to change from 115.29 percent in this review.

<sup>9</sup> In the *Preliminary Results*, we found Formers, Sailing, and Xiandai to be part of the China-wide entity. Specifically, Sailing and Xiandai each failed to submit a separate rate application to establish eligibility for separate rate status. Formers did not provide evidence of a suspended entry of subject merchandise into the United States during the POR, and our inquiry of the U.S. Customs and Border Protection (CBP) data reported no suspended AD/CVD entries of subject merchandise associated with Formers during the POR. For further details of the issues addressed in this proceeding, see the *Preliminary Results*.

<sup>10</sup> See *Antidumping Duty Orders: Lightweight Thermal Paper from Germany and the People's Republic of China*, 73 FR 70959, 70960 (November 24, 2008) (*Order*).

<sup>11</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).



### Assessment Rates

Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1).

Commerce intends to issue assessment instructions directly to CBP 15 days after publication in the **Federal Register** of these final results of administrative review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed China and non-China exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, including Formers, Sailing and Xiandai, the cash deposit rate will be the China-wide rate of 115.29 percent; and (3) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter(s) that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results within five days of its 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 determined that Formers, Sailing and Xiandai are part of the China-wide entity, to which the China-wide rate applies, there are no calculations to disclose.

### Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this

requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

### Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Notification to Interested Parties

This notice of the final results of this antidumping duty administrative review is issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: February 9, 2018.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of the Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2018-03162 Filed 2-15-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **Fermi Research Alliance, et al.; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments**

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave, NW, Washington, DC.

Docket Number: 17-014. Applicant: Fermi Research Alliance, Batavia, IL 60510. Instrument: ICARUS T600 Detector. Manufacturer: The European Organization for Nuclear Research, Switzerland. Intended Use: See notice at 82 FR 57212, December 4, 2017. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the

foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to study the rate at which muon neutrinos, a type of elementary particle, change flavor to electron neutrinos as they travel the distance between three LArTPC detectors. This is the only instrument that meets the requirements for position and time resolution of particle trajectories.

Docket Number: 17-015. Applicant: New Mexico Institute of Mining and Technology, Socorro, NM 87801. Instrument: Unit Telescope Enclosure #1 (UTE1). Manufacturer: European Industrial Engineering (EIE) Group, Italy. Intended Use: See notice at 82 FR 57212, December 4, 2017. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to study star and planet formation, active galactic nuclei and stellar accretion and mass loss. Unique features of the instrument include access to all astronomical objects above 30 degrees in elevation, with an inner axis rotation angle between +40 degrees and -50 degrees, as well as thermal stability and protection from shock load and vibration.

Docket Number: 17-016. Applicant: Yale University, New Haven, CT 06520. Instrument: Mosquito crystal robot. Manufacturer: TTP Labtech, United Kingdom. Intended Use: See notice at 82 FR 57212-13, December 4, 2017. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to obtain crystals of the biological macromolecule with and without its binding partner(s). Unique features of the instrument include disposable tips, which are essential to avoid cross contamination.

Docket Number: 17-018. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Instrument: Solid State Klystron Modulator. Manufacturer: Scandinova Systems AB, Sweden. Intended Use: See notice at 82 FR 57213, December 4, 2017. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign



instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to study the magnetization, structure and conductivity of various organic and inorganic specimens such as proteins, ferrite, and superconducting materials. This is the only instrument with specific electrical socket to connect to the klystron, a solenoid magnet with magnetic field contours specific to the Model E37302A.

Dated: February 9, 2018.

**Gregory W. Campbell,**  
*Director, Subsidies Enforcement, Enforcement and Compliance.*

[FR Doc. 2018-03260 Filed 2-15-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-351-846]

#### Hot-Rolled Steel Products From Brazil: Rescission of 2016 Countervailing Duty Administrative Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty order on hot-rolled steel products from Brazil for the period of review (POR) January 15, 2016, through December 31, 2016.

**DATES:** *Applicable:* February 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ross Belliveau or William Miller, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4952 or (202) 482-3906, respectively.

#### Background

On October 4, 2017, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the countervailing duty order on hot-rolled steel products from Brazil for the POR.<sup>1</sup> On October 31, 2017, Commerce received a timely request from Companhia Siderurgica Nacional S.A. (CSN), in accordance with section 751(a) of the Tariff Act of 1930, as

amended (the Act) and 19 CFR 351.213(b), to conduct an administrative review of this countervailing duty order.<sup>2</sup>

On December 7, 2017, Commerce published in the **Federal Register** a notice of initiation with respect to CSN.<sup>3</sup> On January 23, 2018, CSN timely withdrew its request for an administrative review.<sup>4</sup>

#### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, CSN withdrew its request for review by the 90-day deadline, and no other party requested an administrative review of this order. Therefore, we are rescinding the administrative review of the countervailing duty order on hot-rolled steel products from Brazil covering the period January 15, 2016, through December 31, 2016.

#### Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

#### Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to 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). 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 sanctionable violation.

<sup>2</sup> See Letter from CSN, "Hot-Rolled Steel Products from Brazil: Request for Review—2016 Review Period," dated October 31, 2017.

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 57705 (December 7, 2017).

<sup>4</sup> See Letter from CSN, "Hot-Rolled Steel Products from Brazil: Withdraw of Review Request," dated January 23, 2018.

This notice is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: February 9, 2018.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2018-03161 Filed 2-15-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Date added to the Procurement List:* March 18, 2018.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202-4149.

**FOR FURTHER INFORMATION CONTACT:** Amy B. Jensen, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

#### SUPPLEMENTARY INFORMATION:

##### Additions

On 12/22/2017 (82 FR 245) and 1/12/2018 (83 FR 9), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501-8506 and 41 CFR 51-2.4.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 46217 (October 4, 2017).

other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

#### End of Certification

Accordingly, the following products are added to the Procurement List:

##### Products

NSN(s)—Product Name(s): 6850–01–474–2317—Solvent, Dry Cleaning, Degreasing, 5 Gal

*Mandatory for:* 100% of the requirement of the Department of Defense

*Mandatory Source of Supply:* The Lighthouse for the Blind, St. Louis, MO

*Contracting Activity:* Defense Logistics Agency Aviation.

NSN(s)—Product Name(s):

8410–01–449–5284—Skirt, Service Dress,

Air Force, Women's, Blue, 6WR

8410–00–0SK–T523—Skirt, Service Dress,

Air Force, Women's, Blue, Special

Measurement

8410–01–449–5288—Skirt, Service Dress,

Air Force, Women's, Blue, 8WL

8410–01–449–5297—Skirt, Service Dress,

Air Force, Women's, Blue, 4WR

8410–01–441–7678—Skirt, Service Dress,

Air Force, Women's, Blue, 20WR

8410–01–441–7681—Skirt, Service Dress,

Air Force, Women's, Blue, 22WR

8410–01–441–7240—Skirt, Service Dress,

Air Force, Women's, Blue, 18WR

8410–01–441–7243—Skirt, Service Dress,

Air Force, Women's, Blue, 18WL

8410–01–441–6741—Skirt, Service Dress,

Air Force, Women's, Blue, 14WS

8410–01–441–6750—Skirt, Service Dress,

Air Force, Women's, Blue, 14WL

8410–01–441–6759—Skirt, Service Dress,

Air Force, Women's, Blue, 16MS

8410–01–441–6695—Skirt, Service Dress,

Air Force, Women's, Blue, 12WS

8410–01–441–6701—Skirt, Service Dress,

Air Force, Women's, Blue, 12WL

8410–01–441–6704—Skirt, Service Dress,

Air Force, Women's, Blue, 14MS

8410–01–441–6644—Skirt, Service Dress,

Air Force, Women's, Blue, 12ML

8410–01–441–6327—Skirt, Service Dress,

Air Force, Women's, Blue, 12MS

8410–01–441–5747—Skirt, Service Dress,

Air Force, Women's, Blue, 16WL

8410–01–441–4602—Skirt, Service Dress,

Air Force, Women's, Blue, 2MS

8410–01–441–5672—Skirt, Service Dress,

Air Force, Women's, Blue, 16WS

8410–01–449–5286—Skirt, Service Dress,

Air Force, Women's, Blue, 8WR

8410–01–441–5742—Skirt, Service Dress,

Air Force, Women's, Blue, 16WR

8410–01–441–6744—Skirt, Service Dress,

Air Force, Women's, Blue, 14WR

*Mandatory for:* 100% of the requirement of the U.S. Air Force

*Mandatory Source of Supply:* North Bay Rehabilitation Services, Inc., Rohnert Park, CA

*Contracting Activity:* Defense Logistics Agency Troop Support

**Amy B. Jensen,**

*Director, Business Operations.*

[FR Doc. 2018–03281 Filed 2–15–18; 8:45 am]

**BILLING CODE 6353–01–P**

#### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

##### Procurement List; Addition

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Addition to from the Procurement List.

**SUMMARY:** This action adds a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities.

**DATES:** *Date added to the Procurement List:* February 28, 2018

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

##### SUPPLEMENTARY INFORMATION:

##### Addition

On 11/27/2017 (82 FR 226), the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

##### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small

entities other than the small organization that will provide the service to the Government.

2. The action will result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

##### End of Certification

Accordingly, the following service is added to the Procurement List:

##### Service

*Service Type:* Grounds Maintenance Service

*Mandatory for:* US Navy NAVFAC Mid Atlantic, Greater Sandy Run Area, Camp Davis, Onslow Beach, Wilson Bay, Hwy 24 Bell Fork foot Bridge & Verona Loop, Marine Corps Base, 1005 Michael Road, Camp Lejeune, NC

*Mandatory Source of Supply:* Coastal Enterprises of Jacksonville, Inc., Jacksonville, NC

*Contracting Activity:* Dept of the Navy, NAVAL FAC ENGINEERING CMD MID LANT

*Comment:* The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the U.S. Navy NAVFAC Mid Atlantic Grounds Maintenance Service contract. The Federal customer contacted, and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the U.S. Navy will refer its business elsewhere, this addition must be effective on February 28, 2018, ensuring timely execution for a March 1, 2018 start date while still allowing 11 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee has been in contact with one of the affected parties, the incumbent of the expiring contract since July 2017 and determined that no severe adverse impact exists. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on November 27, 2017, and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne Program who otherwise face challenges

locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

**Amy B. Jensen,**

*Director, Business Operations.*

[FR Doc. 2018-03272 Filed 2-15-18; 8:45 am]

**BILLING CODE 6353-01-P**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### **Record of Decision for the Presidential Aircraft Recapitalization Program at Joint Base Andrews-Naval Air Facility Washington, Maryland Final Environmental Impact Statement**

**AGENCY:** Department of the Air Force, DOD.

**ACTION:** Notice of availability of a Record of Decision.

**SUMMARY:** The United States Air Force signed the Record of Decision for the Presidential Aircraft Recapitalization at Joint Base Andrews-Naval Air Facility Washington, Maryland (hereafter referred to as “the Program”) Final Environmental Impact Statement. The Air Force will construct and operate a two-bay Presidential Aircraft Recapitalization Hangar Complex (hereafter referred to as “the Hangar Complex”) facility on Joint Base Andrews at a location known as Alternative 4 to house two separately acquired Boeing 747-8 aircraft.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Ackerman, (210) 925-2741, EIS Project Manager, AFCEC/CZN, 2261 Hughes Ave, Ste. 155, JBSA Lackland, TX 78326-9853.

**SUPPLEMENTARY INFORMATION:** On December 27, 2017 the United States Air Force signed the Record of Decision for the Presidential Aircraft Recapitalization. The Air Force decided to utilize the interim Taxiway C site for the Hazardous Cargo Pad during the Hangar complex construction but did not make a final decision for the Hazardous Cargo Pad and Explosive Ordnance Disposal Proficiency Range permanent siting. However, the Air Force identified Hazardous Cargo Pad and Explosive Ordnance Disposal Proficiency Range Southeast Option 1 or a variant thereof (e.g. Southeast Option 1A or 1A-3) as its preferred alternative for the permanent siting of these facilities. The final decision for the permanent siting of the Hazardous Cargo Pad/Explosives Ordnance Disposal Proficiency Range may be made in a subsequent Record of

Decision no earlier than 30 days from this publication and after considering any additional comments that may be received on the preferred alternative for these facilities. The Record of Decision includes decisions on other mission activities necessitated by the Hangar Complex siting.

Air Force decisions documented in the Record of Decision were based on matters discussed in the Final Environmental Impact Statement, inputs from the public and regulatory agencies, and other relevant factors. The Final Environmental Impact Statement was made available to the public on October 17, 2017 through a notice of availability in the **Federal Register** (Volume 82, Number 199, Page 48227) with a wait period that ended on November 15, 2017. The Record of Decision documents only the decision of the Air Force with respect to the proposed Air Force actions analyzed in the Final Environmental Impact Statement.

**Authority:** This notice of availability is published pursuant to the regulations (40 CFR 1506.6 and 1502.14(e)) implementing the provisions of NEPA (42 U.S.C. 4321, *et seq.*) and the Air Force’s Environmental Impact Analysis Process (32 CFR 989.21(b) and 989.24(b)(7)).

**Henry Williams,**

*Acting Air Force Federal Register Officer.*

[FR Doc. 2018-02877 Filed 2-15-18; 8:45 am]

**BILLING CODE 5001-10-P**

## DEPARTMENT OF DEFENSE

#### **Defense Advisory Committee on Investigation Prosecution and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting**

**AGENCY:** General Counsel of the Department of Defense, Department of Defense.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee on Investigation Prosecution and Defense of Sexual Assault in the Armed Forces will take place. This meeting will be open to the public.

**DATES:** Friday, March 2, 2018, from 11:00 a.m. to 2:00 p.m.

**ADDRESSES:** One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Dwight Sullivan, 703-695-1055 (Voice),

*dwight.h.sullivan.civ@mail.mil* (Email). Mailing address is DACIPAD, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203. Website: *http://dacipad.whs.mil/*. The most up-to-date changes to the meeting agenda can be found on the website.

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.140 and 102-3.150.

**Purpose of the Meeting:** In section 546 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113-291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92), Congress tasked the DAC-IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the sixth public meeting held by the DAC-IPAD. The Committee will review and conduct final deliberations on its March 2018 DAC-IPAD Report.

**Agenda:** 11:00 a.m.–1:45 p.m. Committee Review of and Final Deliberations on March 2018 DAC-IPAD Report; 1:45 p.m.–2:00 p.m. Public Comment; 2:00 p.m. Meeting Adjourned.

**Meeting Accessibility:** Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. Visitors are required to sign in at the One Liberty Center security desk and must leave government-issued photo identification on file and wear a visitor badge while in the building. Department of Defense Common Access Card (CAC) holders who do not have authorized access to One Liberty Center must provide an alternate form of government-issued photo identification to leave on file with security while in the building. All visitors must pass through a metal detection security screening. Individuals requiring special accommodations to access the public meeting should contact the DAC-IPAD at *whs.pentagon.em.mbx.dacipad@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made. In the event the Office of Personnel Management closes the government due to inclement weather or for any other reason, please

consult the website for any changes to the public meeting date or time.

**Written Statements:** Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Committee about its mission and topics pertaining to this public session. Written comments must be received by the DAC–IPAD at least five (5) business days prior to the meeting date so that they may be made available to the Committee members for their consideration prior to the meeting. Written comments should be submitted via email to the DAC–IPAD at [whs.pentagon.em.mbx.dacipad@mail.mil](mailto:whs.pentagon.em.mbx.dacipad@mail.mil) in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the DAC–IPAD operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be

made available for public inspection. Oral statements from the public will be permitted, though the number and length of such oral statements may be limited based on the time available and the number of such requests. Oral presentations by members of the public will be permitted from 1:45 p.m. to 2:00 p.m. on March 2, 2018, in front of the Committee members.

Dated: February 12, 2018.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2018–03187 Filed 2–15–18; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

**[Transmittal No. 17–77]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense (DoD).

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:**

Pamela Young, (703) 697–9107, [pamela.a.young14.civ@mail.mil](mailto:pamela.a.young14.civ@mail.mil) or Kathy Valadez, (703) 697–9217, [kathy.a.valadez.civ@mail.mil](mailto:kathy.a.valadez.civ@mail.mil); DSCA/DSA–RAN.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–77 with attached Policy Justification and Sensitivity of Technology.

Dated: February 12, 2018.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**BILLING CODE 5001–06–P**



## DEFENSE SECURITY COOPERATION AGENCY

201 12TH STREET SOUTH, STE 203  
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

FEB 05 2018

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-77, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Finland for defense articles and services estimated to cost \$112.7 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

A handwritten signature in black ink, appearing to read "C. W. Hooper".

Charles W. Hooper  
Lieutenant General, USA  
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology



## BILLING CODE 5001-06-C

Transmittal No. 17-77

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Government of Finland

(ii) *Total Estimated Value*:

Major Defense Equipment* .....	\$ 92.6 million
Other .....	\$ 20.1 million
Total .....	\$112.7 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

*Major Defense Equipment (MDE)*:

Sixty-eight (68) Evolved SEASPARROW Missiles (ESSM)

One (1) ESSM inert operational missile *Non-MDE*:

Also included are seventeen (17) MK25 quad pack canisters, eight (8) MK783 shipping containers, spare and repair parts, support and test equipment, publications and technical documentation, training, U.S. Government/Contractor engineering, technical and logistics support services and technical assistance, and other related elements of logistical support.

(iv) *Military Department*: Navy (FI-P-LBP)

(v) *Prior Related Cases, if any*: None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex

(viii) *Date Report Delivered to Congress*: February 5, 2018

\*As defined in Section 47(6) of the Arms Export Control Act.

#### POLICY JUSTIFICATION

##### *Finland—Evolved SEASPARROW Missiles (ESSM)*

The Government of Finland has requested a possible sale of sixty-eight (68) Evolved SEASPARROW Missiles (ESSM) and one (1) ESSM inert operational missile. Also included are seventeen (17) MK25 quad pack canisters, eight (8) MK783 shipping containers, spare and repair parts, support and test equipment, publications and technical documentation, training, U.S. Government/Contractor engineering, technical and logistics support services and technical assistance, and other related elements of logistical support. The estimated total case value is \$112.7 million.

This proposed sale will support the foreign policy and national security

objectives of the United States by improving the security of a partner nation that has been, and continues to be, an important force for political stability and economic progress in Europe.

Finland intends to use the missiles on its new Squadron 2020 class Corvette ships. The missiles will provide enhanced capabilities in effective defense of critical sea lanes and improve Finland's capability to meet current and future threats of enemy anti-ship weapons. Finland has not purchased ESSM previously, but will have no difficulty incorporating this capability into its naval forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Raytheon Missile Systems (RMS) Tucson, AZ, for the missiles, and BAE Systems, Aberdeen, SD, for the missile canisters. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require up to 12 U.S. Government personnel to travel to Finland providing support over a period of five years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17-77

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) *Sensitivity of Technology*:

1. The Evolved SEASPARROW missiles (ESSM) includes the guidance section, warhead section, transition section, propulsion section, control section, and Thrust Vector Control (TVC) of which the guidance section and transition section are classified CONFIDENTIAL. Standard missile documentation will include:

- Parametric documents (classified CONFIDENTIAL)
- Missile Handling/Maintenance Procedures (UNCLASSIFIED)
- General Performance Data (classified CONFIDENTIAL)
- Firing Guidance (classified CONFIDENTIAL)
- Dynamics Information (classified CONFIDENTIAL)

2. The Evolved SEASPARROW Missile (ESSM) contains SENSITIVE technological information and/or RESTRICTED information in the missile guidance section. Certain operating frequencies and performance characteristics are classified SECRET

because they could be used to develop tactics and/or countermeasures to reduce or defeat the missile effectiveness.

3. If a technologically advanced adversary were to obtain knowledge of specific hardware, the information could be used to develop countermeasures which might reduce weapons system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Finland can provide substantially the same degree of protection for sensitive technology being released as the U.S. Government. This proposed sustainment program is necessary to the furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification.

5. All defense articles and services listed on this transmittal are authorized for release and export to the Government of Finland.

[FR Doc. 2018-03190 Filed 2-15-18; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0156]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Teacher Cancellation Low Income Directory

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before March 19, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2017-ICCD-0156. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be

addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216-34, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Tammy Gay, 816-804-0848.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Teacher Cancellation Low Income Directory.  
*OMB Control Number:* 1845-0077.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 57.

*Total Estimated Number of Annual Burden Hours:* 6,840.

*Abstract:* The Higher Education Act of 1965, as amended, (HEA) allows for up to a one hundred percent cancellation of a Federal Perkins Loan and loan forgiveness of a Federal Family Education Loan and Direct Loan program loan if the graduate teaches full-time in an elementary or secondary school serving low-income students.

The data collected for the development of the Teacher Cancellation Low Income Directory

provides web-based access to a list of all elementary and secondary schools, and educational service agencies that serve a total enrollment of more than 30 percent low income students (as defined under Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended). The Directory allows post-secondary institutions to determine whether or not a teacher, who received a Federal Perkins Loan, Direct Loan, or Federal Family Education Loan at their school, is eligible to receive loan cancellation or forgiveness or that a teacher who received a TEACH Grant is meeting the service obligation.

Dated: February 13, 2018.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2018-03240 Filed 2-15-18; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0154]

### **Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Work Colleges Expenditure Report**

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before March 19, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2017-ICCD-0154. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216-34, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Tammy Gay, 816-804-0848.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Work Colleges Expenditure Report.

*OMB Control Number:* 1845-NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 10.

*Total Estimated Number of Annual Burden Hours:* 20.

*Abstract:* The Higher Education Opportunity Act, Public Law 110-315 includes provisions for the Higher Education Act of 1965, as amended, in section 448 that promotes the use of comprehensive work-learning-service programs as a valuable education approach when it is an integral part of the institution's education program and a part of a financial plan which decreases reliance on grants and loans. Work Colleges participants are required to report expenditure of funds annually. The data collected in this report is used by the Department to monitor program effectiveness and accountability of fund expenditures.

The data is used in conjunction with institutional program reviews to assess the administrative capability and compliance of the applicant. There are no other resources for collecting this data.

Dated: February 13, 2018.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2018-03242 Filed 2-15-18; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF EDUCATION

[Docket ID ED-2016-OM-0108]

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Management, Department of Education.

**ACTION:** Notice of a Modified System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a), the Department of Education (Department or ED) publishes this notice of a modified system of records entitled “Student Loan Repayment Benefits Case Files” (18-05-15). The system contains records related to employees and job candidates who are being considered for student loan repayment benefits under the Department’s Human Capital Policy 537-1 entitled “Student Loan Repayment Program,” as well as individuals who have been approved for and are receiving such benefits.

The information maintained in the system of records entitled “Student Loan Repayment Benefits Case Files” consists of one or more of the following: Request letters from selecting officials or supervisors with supporting documentation; employees’ and job candidates’ names, home and work addresses, Social Security numbers, student loan account numbers, loan balances, repayment schedules, repayment histories, and repayment status; the loan holders’ names, addresses, and telephone numbers; and a signed written service agreement in which an employee or job candidate agrees to complete a specified period of employment with ED. The information that will be maintained in the modified system of records will be collected through various sources, including directly from the individual to whom the information applies, officials of the Department, and official Department documents. The Department published a notice of a modified system of records

in the **Federal Register** on December 23, 2016 (81 FR 94353). The Department is hereby modifying that notice, and is republishing it in full.

**DATES:** Submit your comments on this modified system of records notice on or before March 19, 2018

This modified system of records will become effective upon publication in the **Federal Register** on February 16, 2018, unless the modified system of records notice needs to be changed as a result of public comment. Newly proposed routine use (14) and modified routine uses (2, 4, 6, 12, and 13) in the paragraph entitled “ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES” will become effective on March 19, 2018, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- **Federal eRulemaking Portal:** Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “help” tab.

- **Postal Mail, Commercial Delivery, or Hand Delivery:** If you mail or deliver your comments about this modified system of records, address them to: Kimberly Ritter, Director, Office of Human Resources, Learning and Development Division, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-4573.

**Privacy Note:** The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record:** On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or

other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### FOR FURTHER INFORMATION CONTACT:

Kimberly Ritter, Director, Office of Human Resources, Learning and Development Division. Telephone: (202) 453-5588.

If you use a telecommunications device for the deaf or a text telephone, you may call the Federal Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Introduction

The Student Loan Repayment Benefits Case Files (18-05-15) system of records was most recently published in the **Federal Register** on December 23, 2016 (81 FR 94353). The Department is hereby modifying that notice by updating routine uses for disclosure, removing a section regarding the disclosure of records to consumer reporting agencies, clarifying categories of records in and categories of individuals covered by the system, clarifying the record source categories, updating the records retention schedule in the section on the policies and practices for retention and disposal of records, updating the policies and practices for retrieval of records, and clarifying the record access, contesting, and notification procedures.

**Accessible Format:** Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.



Dated: February 13, 2018.

**Denise L. Carter,**

*Acting Assistant Secretary for Management.*

For the reasons discussed in the preamble, the Acting Assistant Secretary for Management, U.S. Department of Education (Department or ED), publishes a notice of a modified system of records to read as follows:

**System Name and Number**

Student Loan Repayment Benefits Case Files (18-05-15).

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Human Resources, Learning and Development Division, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-4573.

**SYSTEM MANAGER(S):**

Director, Office of Human Resources, Learning and Development Division, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-4573.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (Pub. L. 106-398), as amended (5 U.S.C. 5379), and implementing regulations at 5 CFR part 537.

**PURPOSE(S) OF THE SYSTEM:**

These records are maintained to determine eligibility and benefits and to process requests to offer student loan repayment benefits to recruit highly qualified job candidates or to retain highly qualified Department employees under authority set forth at 5 U.S.C. 5379. The Department uses these records to prepare its reports for the Office of Personnel Management (OPM) as is required by 5 U.S.C. 5379 and 5 CFR 537.110. The Department will also refer information from this system to loan holders for collection activities in the case of any student loan default or delinquency that becomes known to the Department in the course of determining an employee's and job candidates' eligibility for student loan repayment benefits because of the Department's mission responsibilities for Federal student loan programs and its role in promoting their responsible use by student borrowers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system contains records on employees and job candidates (other

than those outside of the Department who are currently employed in the Federal service) who are being considered for student loan repayment benefits under the Department's Human Capital Policy 537-1 entitled "Repayment of Federal Student Loans," as well as employees who have been approved for and received such benefits and former employees who have been approved for and received such benefits before separating from the Department.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains correspondence and other documents related to requests made by selecting officials or supervisors to offer student loan repayment benefits to recruit highly qualified job candidates or retain highly qualified employees. This system contains: (1) Request letters from selecting officials or supervisors with supporting documentation; (2) employees' and job candidates' names, home and work addresses, Social Security numbers, student loan account numbers, loan balances, repayment schedules, repayment histories, and repayment status; (3) the loan holders' names, addresses, and telephone numbers; and (4) a signed written service agreement in which an employee or job candidate agrees to complete a specified period of employment with ED.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from the individual to whom the information pertains, officials of the Department, official Department documents, and from other individuals or entities from which data is obtained under routine uses set forth below.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act) under a computer matching agreement.

(1) *Personnel Management Disclosure.* The Department may disclose as a routine use to OPM any records or information in this system of records that OPM requests or requires pursuant to OPM's oversight and regulatory functions.

(2) *Salary Offset or Debt Collection Disclosures.* The Department may disclose records in this system to other Federal agencies, hearing or court officials, and present employers of a former employee in order for the Department to obtain repayment, if an employee or former employee either fails to complete the period of employment required under a written service agreement (except as set forth in 5 CFR 537.109(b)) or violates any other condition of a written service agreement that specifically triggers a reimbursement requirement, and fails to reimburse the Department the amount of any student loan repayment benefits that the employee or former employee received from the Department.

(3) *Disclosure to Other Federal Agencies.* The Department may disclose records in this system to its payroll processing provider in order to calculate tax withholdings and disburse payments of student loan repayment benefits to loan holders on behalf of employees approved to receive this benefit.

(4) *Disclosure to Student Lending Institutions or Loan Holders.* The Department may disclose to student lending institutions or loan holders records from this system as a routine use disclosure in order to verify information (such as the borrower's account number, original and current loan balance, repayment schedule, repayment history, and current repayment status) to allow the Department to determine an employee's initial and continuing eligibility for this benefit, to facilitate accurate payments to student loan holders on behalf of eligible employees, and to ensure the Department discontinues making student loan repayments to individuals who do not remain eligible for them during the period of the service agreement. The Department also may disclose to loan holders records from this system of records as a routine use disclosure in the event it becomes known to the Department during the course of its program eligibility determinations that an individual is past due, delinquent, or in default of a federally insured student loan so that the Department can facilitate the loan holder's collection of any past due, delinquent, or defaulted student loans, because of the Department's mission responsibilities for Federal student loan programs and its role in promoting their responsible use by student borrowers.

(5) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order

of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(6) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (i) through (v) is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed or has been requested to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department requests representation for or has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person or entity.

(d) *Parties, Counsels, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(7) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(8) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: a complaint, a grievance, or a disciplinary or competency determination proceeding. The disclosure may only be made during the course of the proceeding.

(9) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to DOJ or the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(10) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the program covered by this system.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of a contractor, the Department may disclose the records to those employees. As part of such a contract, the Department shall require the contractor to agree to maintain safeguards to protect the security and confidentiality of the records in the system.

(13) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (1) The Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operation), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(14) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(15) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained in hard copy in locked file cabinets and electronically on the SharePoint platform, which runs on the Department's network (EDUCATE).

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrievable by the name of the individual.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

All documents will be retained in accordance with the ED Records Schedule 235: Student Loan Repayment Benefit Case Files. Non-disputed service agreements—Temporary. Destroy/delete 3 years after date of approval or upon completion of service agreement, or allowance, whichever is later. Disputed service agreements—Temporary. Destroy/delete 6 years and 3 months after the dispute has been resolved, service agreement completed, or repayment, whichever is later. Disapproved requests—Temporary. Cut off after requested benefits are denied. Destroy/delete 3 years after cut off.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

All physical access to the building where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for an employee or visitor badge. Hard copy records are stored in locked metal filing cabinets, with access limited to personnel whose duties require access. Electronic records are stored on the SharePoint network, which runs on the Department's network (EDUCATE). The network complies with the security controls and procedures described in the Federal Information Security Management Act (FISMA), National Institute of Standards and Technology (NIST) Special Publications, and Federal Information Processing Standards (FIPS). Some specific security controls in place include:

Operating systems and infrastructure devices are hardened in accordance with NIST and Department guidance.

Intrusion Detection Systems are deployed at the Intranet and internet edges and are actively monitored by the Security Operations Center (SOC).

Vulnerability scans are conducted periodically to ensure supporting systems, and all applications are at the highest state of security and are patched accordingly.

This security system limits data access to Department and contract staff on a "need to know" basis, and controls individual users' ability to access and modify records within the system. Personal computers used to access the electronic records are password-protected, and passwords are changed periodically throughout the year.

**RECORD ACCESS PROCEDURES:**

If you wish to request access to your records, you should contact the system manager at the address listed above. You must provide necessary particulars such as your name, name of organization, subject matter, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. You must comply with the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

**CONTESTING RECORD PROCEDURES:**

If you wish to request an amendment to your records, you should contact the system manager at the address listed above. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

**NOTIFICATION PROCEDURES:**

If you wish to inquire whether a record exists regarding you in this system, you should contact the system manager at the address listed above. You must provide necessary particulars such as your name, name of organization, subject matter, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

The System of Records entitled "Student Loan Repayments Benefits Case Files" (18–05–15) was first published in the **Federal Register** on May 29, 2002 at 67 FR 37411–37414. The Department published a Notice of an altered system of records in the **Federal Register** on December 23, 2016 at 81 FR 94353–94356.

[FR Doc. 2018–03254 Filed 2–15–18; 8:45 am]

**BILLING CODE 4000–01–P**

**DEPARTMENT OF EDUCATION**

[Docket No.: ED–2017–ICCD–0155]

**Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Work Colleges Application and Agreement**

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before March 19, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2017–ICCD–0155. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Tammy Gay, 816–804–0848.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

that written comments received in response to this notice will be considered public records.

*Title of Collection:* Work Colleges Application and Agreement.

*OMB Control Number:* 1845–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 10.

*Total Estimated Number of Annual Burden Hours:* 20.

*Abstract:* The Higher Education Opportunity Act, Public Law 110–315 includes provisions for the Higher Education Act of 1965, as amended, in section 448 that promotes the use of comprehensive work-learning-service programs as a valuable education approach when it is an integral part of the institution's education program and a part of a financial plan which decreases reliance on grants and loans. The Work Colleges Application and Agreement form is the tool for an institution to apply for participation in this program. The data will be used by the Department to assess an institution's preparedness to participate in this program and as a signed agreement to comply with all requirements for participating in the program. The data is used in conjunction with institutional program reviews to assess the administrative capability and compliance of the applicant.

Dated: February 13, 2018.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2018–03241 Filed 2–15–18; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket ID ED–2017–OM–0092]

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Management, Department of Education.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) modifies in its inventory of system of records notices subject to the Privacy Act the system of records entitled “Departmental Parking Control Policy” (18–05–01). The Departmental Parking Control Policy contains individually identifying

information provided by individuals who wish to use parking spaces on Department-managed and Department-controlled property and on property assigned to the Department by the General Services Administration or any other Federal agency.

**DATES:** Submit your comments on this modified system of records notice on or before March 19, 2018.

This modified system of records will become effective upon publication in the **Federal Register** on February 16, 2018. New and modified routine use disclosures numbered (2)–(11) listed under “ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES” will become effective on March 19, 2018, unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “help” tab.

- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this modified system of records, address them to: Director, Logistics Services Division, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to

review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### FOR FURTHER INFORMATION CONTACT:

David Cogdill, Director, Logistics Services Division, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

#### SUPPLEMENTARY INFORMATION:

##### Introduction

The Departmental Parking Control Policy (18–05–01) System of Records Notice was last published in the **Federal Register** on June 4, 1999 (64 FR 30106, 30122–23). The system is being modified to update the system location and the system manager. The system is also being modified to update the categories of records to now include Department email address, automobile license number, make and model, and a participant-generated four-digit number. For notification and access to their records, individuals will now be able to give this four-digit number instead of their Social Security number. The authority of the system is being updated to reflect the current legal authority for maintenance. The name of the system is also changing and will now be referred to as the Parking Application Tracking System (PATs). The storage, retrieval, and safeguards of records have been updated to reflect the use of electronic files. The retention and disposition schedule are also being updated to reflect the specific Department records schedule related to this system. The Department also proposes to add standard routine uses allowing the disclosure of records in this system for various purposes.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### Electronic Access to This Document:

The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all

other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 13, 2018.

**Denise L. Carter,**

*Acting Assistant Secretary for Management.*

For the reasons discussed in the preamble, the Acting Assistant Secretary for Management, U.S. Department of Education (Department), publishes a notice of a modified system of records to read as follows:

**System Name and Number:**

Parking Application Tracking System (PATS)(18–05–01).

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Logistics Services Division, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

**SYSTEM MANAGER(S):**

Director, Logistics Services Division, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 et. seq., and 41 CFR 102–74.265–310 (Parking Facilities).

**PURPOSE(S) OF THE SYSTEM:**

The information contained in this system is used to: (1) Provide standards for apportionment and assignment of parking spaces on property managed by the Department of Education (Department) and Department-controlled property, and on property assigned to the Department by the General Services Administration (GSA) or any other Federal agency, and (2) allocate and check parking spaces assigned to government vehicles, visitors, handicapped personnel, executive personnel, carpool and van pools, and others.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All Department employees and non-Department carpool members utilizing parking facilities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system includes the following information on all persons applying for a parking permit: Name, participant-generated four-digit number, office room number, Department email address, office phone number, principal office, complete home address, and automobile license number, make and model.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from reports submitted by Department staff, Principal Offices and Regional Offices, GSA Federal Management circulars, Federal Property Management Regulations, and directly from individuals.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with a purpose for which the record was collected. These disclosures are made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a member of Congress or the member's staff when necessary to respond to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested the inquiry.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in judicial or administrative litigation or ADR, the Department may disclose records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any Department employee in his or her individual capacity if the U.S.

Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee.

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to DOJ.* If the Department determines that disclosure of records to DOJ is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that it is relevant and necessary to the litigation or ADR to disclose records to an adjudicative body before which the Department is authorized to appear or to a person or an entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, or Witnesses.* If the Department determines that disclosure of records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(3) *Enforcement Disclosure.* In the event that information in this system indicates a violation or potential violation of any statute, regulation, or order of competent authority, the Department may disclose relevant records to the appropriate agency responsible for investigating or prosecuting that violation or charged with enforcing or implementing the statute, regulation, or order. In monitoring compliance with the statutes, regulations, laws, and orders governing its programs and activities, the Department may discover information revealing violations of these statutes, regulations, laws, and orders.

(4) *Employment, Benefit, and Contracting Disclosure.* For "Decisions by the Department," the Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a

security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. For "Decisions by Other Public Agencies and Professional Organizations," the Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with its decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal government if the record is relevant to one of the following proceedings regarding a current or former employee of the Department: A complaint, a grievance, or a disciplinary or competency determination proceeding. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to DOJ or the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under FOIA or the Privacy Act.

(8) *Contract Disclosure.* The Department may disclose records to employees of an entity with which the Department contracts when disclosure is necessary for an employee of the entity to perform a function pursuant to the Department's contract with the entity. As part of such a contract, the Department will require the contractor to maintain safeguards to protect the security and confidentiality of the records in the system.

(9) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to

functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. As part of such a contract, the Department will require the researcher to maintain safeguards to protect the security and confidentiality of the disclosed records.

(10) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(11) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are stored electronically, and the signage sheets are produced and kept in binders in file cabinets.

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by parking facility, parking criteria, and participant's name. Binders are stored alphabetically by parking facility.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

ED Schedule 174: Credential Files for the Office of Management. Disposition instructions: TEMPORARY. Cut off after

return to issuing office. Destroy/delete 3 months after cutoff.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

All physical access to the Department site where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

#### **RECORD ACCESS PROCEDURES:**

If you wish to access a record regarding you in this system of records, provide the system manager with necessary particulars of your name, participant-generated four-digit number, agency and office, and the location where Department parking is provided. Requesters should also reasonably specify the record contents sought. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

#### **CONTESTING RECORD PROCEDURES:**

If you wish to request an amendment to your records, provide the system manager with necessary particulars of your name, participant-generated four-digit number, agency and office, and the location where the parking is provided. Contact the system manager at the address specified under NOTIFICATION PROCEDURES below, and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

#### **NOTIFICATION PROCEDURES:**

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with necessary particulars of your name, participant-generated four-digit number, agency and office, and the location where Department parking is provided. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

#### **EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

The System of Records entitled “Departmental Parking Control Policy” (18–05–01) was last published in the **Federal Register** at 64 FR 30106, 30122–30123 (June 4, 1999).

[FR Doc. 2018–03276 Filed 2–15–18; 8:45 am]

**BILLING CODE 4000–01–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Project No. 12532–006]

**Pine Creek Mine, LLC; Notice of Availability of Environmental Assessment**

In accordance with the National Environmental Policy Act of 1969, and the Federal Energy Regulatory Commission’s (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47,897), the Office of Energy Projects has reviewed Pine Creek Mine, LLC’s (PCM or applicant) application for a license to construct its proposed Pine Creek Mine Tunnel Hydroelectric Project (Pine Creek Mine or project), and has prepared an Environmental Assessment (EA). The proposed 1.5-megawatt (MW) project would be located largely inside the Pine Creek Mine tunnel and adjacent to Morgan Creek and Pine Creek in Inyo County, California. The project would occupy only subsurface federal lands managed the U.S. Forest Service.

The EA contains Commission staff’s analysis of the potential environmental impacts of the proposed hydroelectric project. The EA concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission’s website at [www.ferc.gov](http://www.ferc.gov) using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at [www.ferc.gov/docs-filing/esubscription.asp](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.

Any comments and modified terms and conditions on the EA should be filed within 60 days from the date of this notice.

The Commission strongly encourages electronic filings. Please file comments using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>.

You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Please affix “Project No. 12532–006” to all comments.

Please contact Quinn Emmering (Commission Staff) by telephone at (202) 502–6382, or by email at [quinn.emmering@ferc.gov](mailto:quinn.emmering@ferc.gov), if you have any questions.

Dated: February 12, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018–03248 Filed 2–15–18; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket Nos. CP17–441–000, CP17–441–001]

**Northwest Pipeline LLC; Notice of Availability of the Environmental Assessment for the Proposed North Seattle Lateral Upgrade Project**

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the North Seattle Lateral Upgrade Project, proposed by Northwest Pipeline LLC (Northwest) in the above-referenced docket. Northwest requests authorization to replace approximately 5.9 miles of 8-inch-diameter natural gas pipeline with 20-inch-diameter pipeline in Snohomish County, Washington. According to Northwest, the North Seattle Lateral Upgrade Project would increase service reliability and enable Northwest to provide an incremental 159,299 dekatherms per day of firm capacity to serve Puget Sound Energy.

The EA assesses the potential environmental effects of the

construction and operation of the North Seattle Lateral Upgrade Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed North Seattle Lateral Upgrade Project would consist of the following facilities:

- Replace 5.9-miles of 8-inch-diameter pipeline with 20-inch-diameter pipeline;
- rebuild the existing North Seattle/Everett meter station in order to accommodate the increased delivery capacity of the North Seattle Lateral;
- abandon and relocate approximately 0.1 mile of 16-inch-diameter pipeline;
- relocate an existing 8-inch pig launcher and a 20-inch pig receiver<sup>1</sup> to project milepost 7.76; and
- replace an existing 8-inch mainline valve with a 20-inch valve.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. In addition, the EA is available for public viewing on the FERC’s website ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE, Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before March 13, 2018.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP17–441–000 and

<sup>1</sup> A “pig” is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.



CP17-441-001) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502-8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov).

(1) You can file your comments electronically using the eComment feature on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).<sup>2</sup> Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, CP17-441). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto: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](http://www.ferc.gov/docs-filing/esubscription.asp).

Dated: February 12, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-03247 Filed 2-15-18; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP17-458-000]

#### Midship Pipeline Company, LLC Notice of Availability of the Draft Environmental Impact Statement for the Proposed Midcontinent Supply Header Interstate Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Midcontinent Supply Header Interstate Pipeline Project, proposed by Midship Pipeline Company, LLC (Midship Pipeline) in the above-referenced docket. Midship Pipeline requests authorization to construct and operate approximately 233.6 miles of new pipeline, three compressor stations, a booster station, and accompanying facilities that would deliver an additional 1.44 billion standard cubic feet per day of year-round firm transportation capacity from Kingfisher County, Oklahoma to existing natural gas pipelines near Bennington, Oklahoma for transport to growing Gulf Coast and Southeast Markets.

The draft EIS assesses the potential environmental effects of the construction and operation of the project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the project would result in some adverse environmental impacts; however, these impacts would be reduced to less-than-significant levels with the implementation of Midship Pipeline's proposed mitigation and the additional measures recommended in the draft EIS.

The U.S. Environmental Protection Agency participated as a cooperating agency in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the National Environmental Policy Act analysis. The U.S. Environmental Protection Agency provided input to the conclusions and recommendations presented in the draft EIS.

The draft EIS addresses the potential environmental effects of the construction and operation of the following proposed project facilities in Oklahoma:

- 199.6 miles of new 36-inch-diameter natural gas pipeline in Kingfisher, Canadian, Grady, Garvin, Stephens, Carter, Johnston, and Bryan Counties;
- 20.4 miles of new 30-inch-diameter pipeline lateral in Kingfisher County;
- 13.6 miles of 16-inch-diameter pipeline lateral in Stephens, Carter, and Garvin Counties;
- three new compressor stations and one new booster station in Canadian, Garvin, Bryan, and Stephens Counties; and
- seven new receipt meters, two new receipt taps, four new delivery meters, and appurtenant facilities.

#### Distribution and Comments on the Draft Environmental Impact Statement

The FERC staff mailed copies of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. Paper copy versions of this draft EIS were mailed to those specifically requesting them; all others received a CD version. In addition, the draft EIS is available for public viewing on the FERC's website ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. A limited number of copies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE, Room 2A, Washington, DC 20426, (202) 502-8371.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before April 2, 2018.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal

<sup>2</sup> See the previous discussion on the methods for filing comments.



consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502-8258 or [FercOnlineSupport@ferc.gov](mailto: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](http://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](http://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.

(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 (CP17-458-000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment sessions its staff will conduct in the project area to receive comments on the draft EIS, scheduled as follows:

Date and time	Location
March 12, 2018, 4:00–8:00 pm .....	Donald W. Reynolds Community Center, 1515 W. Main Street, Durant, OK 74701, (580) 924-3486.
March 13, 2018, 4:00–8:00 pm .....	Ardmore Convention Center, 2401 N. Rockford Road, Ardmore, OK 73401, (580) 226-2862.
March 14, 2018, 4:00–8:00 pm .....	Elmore City Community Center, 104 S. Main Street, Elmore City, OK 73433, (580) 788-2345.
March 15, 2018, 4:00–8:00 pm .....	Redlands Community College, 1300 S. Country Club Road, El Reno, OK 73036, (405) 262-2552.

There will not be a formal presentation by Commission staff at any of the public comment sessions, although a format outline handout will be made available. Each comment sessions is scheduled from 4:00 p.m. to 8:00 p.m. (central time zone). If you wish to speak, the Commission staff will hand out numbers in the order of your arrival; distribution of numbers will be discontinued at 7:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 7:00 p.m.

The primary goal of the public comment sessions is to have you identify the specific environmental issues and concerns with the draft EIS. Individual verbal comments will be recorded on a one-on-one basis with a Court Reporter (with FERC staff or representative present) and become part of the public record for this proceeding. If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor. Transcripts of all comments from the sessions will be placed into the docket for the project, which are accessible for public viewing on the FERC's website (at [www.ferc.gov](http://www.ferc.gov)) through our eLibrary system. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

Commission staff will be available at each venue of the public sessions to

answer questions about our environmental review process. It is important to note that written comments mailed to the Commission and those submitted electronically are reviewed by staff with the same scrutiny and consideration as the verbal comments given at the public sessions.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (Title 18 of the Code of Federal Regulations, Part 385.214).<sup>1</sup> Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

#### Questions

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, CP17-458). Be sure you have selected

<sup>1</sup> See the previous discussion on the methods for filing comments.

an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at (866) 208-3676; 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 that 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](http://www.ferc.gov/docs-filing/esubscription.asp).

Dated: February 9, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018-03203 Filed 2-15-18; 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

Tucson Electric Power Company, UNS Electric, Inc., Public Service Company of New Mexico, Arizona Public Service Company, El Paso Electric Company, Black Hills Power, Inc., Black Hills Colorado Electric Utility Company, LP, Cheyenne Light, Fuel, & Power Company, NV Energy, Inc.; and Xcel Energy Services, Inc. on behalf of Public Service Company of Colorado:

WestConnect Stakeholder Meeting  
February 14, 2018, 12:30 p.m.–4 p.m. (MST)

Planning Management Committee Meeting  
April 11, 2018, 9 a.m.–3 p.m. (MST)

The February 14, 2018 WestConnect Stakeholder Meeting will be held at: Pera Club, 1 E Continental Dr., Tempe, AZ 85281.

The April 11, 2018 Planning Management Committee Meeting will be held at: TSGT Offices, 1100 W 116th Ave., Westminster, CO 80234.

The above-referenced meetings will be available via web conference and teleconference.

The above-referenced meetings are open to stakeholders.

Further information may be found at <http://www.westconnect.com/>.

The discussions at the meetings described above may address matters at issue in the following proceeding: ER13–75, *Public Service Company of New Mexico; El Paso Electric Company*.

For more information contact Nicole Cramer, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6775 or [nicole.cramer@ferc.gov](mailto:nicole.cramer@ferc.gov).

Dated: February 9, 2018.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2018–03205 Filed 2–15–18; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2727–092]

#### **Black Bear Hydro Partners, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions**

Take notice that the following hydroelectric license application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2727–092.

c. *Date filed:* December 30, 2015.

d. *Applicant:* Black Bear Hydro Partners, LLC (Black Bear Hydro).

e. *Name of Project:* Ellsworth Hydroelectric Project (Ellsworth Project).

f. *Location:* On the Union River in Hancock County, Maine. 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:* Ms. Kelly Maloney, Manager of Licensing and Compliance, Brookfield Renewable Energy Group, 150 Main Street, Lewiston, ME 04240; Telephone: (207) 755–5606.

i. *FERC Contact:* Dr. Nicholas Palso, (202) 502–8854 or [nicholas.palso@ferc.gov](mailto:nicholas.palso@ferc.gov).

j. Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions 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](mailto: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–2727–092.

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 has been accepted for filing and is now ready for environmental analysis.

l. The existing Ellsworth Project consists of two developments (Graham

Lake and Ellsworth) with a total installed capacity of 8.9 megawatts (MW). The project's average annual generation is 30,511 megawatt-hours. The power generated by the project is sold to the regional power pool administered by ISO New England, Inc.

#### **Graham Lake Development**

The existing Graham Lake Development consists of: (1) A 630-foot-long, 58-foot-high dam that includes: (i) An 80-foot-long, 58-foot-high concrete spillway section with three 20-foot-wide, 22.5-foot-high spillway gates and one 8-foot-wide sluice gate used for downstream fish passage; and (ii) a 550-foot-long, 45-foot-high earthen embankment section with a concrete and sheet pile core wall; (2) an approximately 10,000-acre impoundment (Graham Lake) with a useable storage volume of 133,150 acre-feet at a normal maximum elevation of 104.2 National Geodetic Vertical Datum 1929 (NGVD); (3) a 720-foot-long, 58-foot-high concrete gravity flood control structure and a 65-foot-diameter, 55-foot-high stone-filled sheet pile retaining structure; (4) a 71-foot-long, 36.5-foot-high concrete wing wall; and (5) appurtenant facilities.

#### **Ellsworth Development**

The existing Ellsworth Development consists of: (1) A 377-foot-long, 60-foot-high dam that includes: (i) A 102-foot-long, 60-foot-high concrete bulkhead section; and (ii) a 275-foot-long, 57-foot-high concrete overflow spillway with 1.7-foot-high flashboards; (2) an 85-foot-long, 71-foot-high concrete non-over flow wall at the west end of the bulkhead section; (3) a 26-foot-high abutment at the east end of the spillway; (4) a 90-acre impoundment (Lake Leonard) with a gross storage volume of 2,456 acre-feet at a normal maximum elevation of 66.7 feet NGVD; (5) generating facility No. 1 that includes: (i) a 15-foot-wide, 10-foot-high headgate with a 15-foot-wide, 12.5-foot-high trashrack; (ii) a 10-foot-diameter, 74-foot-long penstock; and (iii) a 26-foot-long, 28-foot-wide concrete and masonry powerhouse that is integral to the concrete non-overflow dam section and contains a single 2.5–MW turbine-generator unit; (6) generating facility No. 2 that includes: (i) an 88.4-foot-wide, 32-foot-high intake structure with two, 8-foot-wide, 15-foot-high headgates with 8-foot-wide, 14-foot-high trashracks, and one 12-foot-wide, 15-foot-high headgate with a 12-foot-wide, 14-foot-high trashrack; (ii) an 8-foot-diameter, 164-foot-long penstock, an 8-foot-diameter, 195-foot-long penstock, and a 12-foot-diameter, 225-foot-long penstock; and

(iii) a 52.5-foot-long, 68-foot-wide concrete and masonry powerhouse that is attached to a 15-foot-long, 30-foot-wide switch house and that contains two 2.0-MW and one 2.4-MW turbine-generator units; (7) downstream fish passage facilities that include three 3-foot-wide surface weirs and an 18-inch-diameter transport pipe; (8) upstream fish passage facilities that include a 120-foot-long, 8-foot-wide fishway with a 3-foot-wide opening and collection station; (9) a 450-foot-long, 2.3 kilovolt generator lead line and step-up transformer connecting the turbine-generator units to the local utility's electric distribution system; and (10) appurtenant facilities.

The Ellsworth Project operates as a water storage facility and a peaking generation facility, depending on available inflows. Water is stored at the Graham Lake Development to reduce downstream flooding during periods of high flow, and is released during periods of low flow so that minimum flows can be maintained in the Union River below Graham Lake Dam. The ability to store and release water at the Graham Lake Development makes it possible for the Ellsworth Development to operate in a peaking mode during periods of high electric demand.

The existing license requires an instantaneous minimum flow release of 250 cubic feet per second (cfs), or inflow (whichever is less), downstream of each development from May 1 to June 30 each year. The minimum flow release from each development is reduced to 105 cfs from July 1 to April 30 each year. In addition to the minimum flows, the existing license requires Black Bear

Hydro to maintain Graham Lake and Lake Leonard between elevations 93.4 and 104.2 feet NGVD and 65.7 and 66.7 feet NGVD, respectively. Black Bear Hydro proposes to continue the current licensed mode of operation, including minimum flow releases. Black Bear Hydro also proposes to install upstream eel passage facilities at the Graham Lake and Ellsworth Developments, construct a canoe portage trail at the Graham Lake Development, and improve angler access at the Graham Lake Development.

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 also available for inspection and reproduction at the address in item h above.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title "PROTEST," "MOTION

TO INTERVENE," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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. Procedural Schedule:*

The application will be processed according to the following revised schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of interventions, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	April 2018.
Commission issues Draft Environmental Assessment .....	August 2018.
Comments on Draft Environmental Assessment .....	October 2018.
Modified terms and conditions, and fishway prescriptions .....	December 2018.
Commission issues Final Environmental Assessment .....	March 2019.

Final amendments to the application must be filed with the Commission no later than the comment period listed in item j above.

p. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the

water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: February 9, 2018.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2018-03204 Filed 2-15-18; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

[Docket No. EL17-95-000]

**California Public Utilities Commission,  
Transmission Agency of Northern  
California, Sacramento Municipal  
Utility District, M-S-R Public Power  
Agency, City of Santa Clara, California,  
State Water Contractors, Modesto  
Irrigation District, Northern California  
Power Agency v. Pacific Gas and  
Electric Company; Notice of Amended  
Complaint**

Take notice that on February 7, 2018, pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of Federal Energy Regulatory Commission (Commission), 18 CFR 385.212-.213 (2017), the California Public Utilities Commission, Transmission Agency of Northern California, Sacramento Municipal Utility District, M-S-R Public Power Agency, City of Santa Clara, California, doing business as Silicon Valley Power, State Water Contractors, Modesto Irrigation District, and Northern California Power Agency (collectively, the Californians or Complainants) submitted an amendment to its formal complaint, filed on September 29, 2017, against Pacific Gas and Electric Company (Respondent) to address a change in Commission policy on the evidentiary burden of complainants that occurred after the Californians submitted their September 29, 2017 complaint, as well as to account for tax law changes that took effect on January 1, 2018, all as more fully explained in its amended complaint.

Complainants certify that copies of the amended complaint were served upon each person designated on the official service list compiled by the Secretary in this proceeding.

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, 385.214 (2017). 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 Complainants.

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 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible online 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](mailto: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 February 27, 2018.

Dated: February 12, 2018.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2018-03246 Filed 2-15-18; 8:45 am]

**BILLING CODE 6717-01-P**

**ENVIRONMENTAL PROTECTION  
AGENCY**

[FRL-9974-48-OAR]

**Allocations of Cross-State Air  
Pollution Rule Allowances From New  
Unit Set-Asides for 2017 Control  
Periods**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability.

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR) trading programs. EPA has completed calculations for the second round of allocations of allowances from the CSAPR new unit set-asides (NUSAs) for the 2017 control periods to new units and has posted spreadsheets containing the calculations on EPA's website. In addition to the eligible units identified in the previous notice regarding this round of 2017 NUSA allocations, EPA is allocating allowances to two newly affected units in Wisconsin that were not previously identified as eligible to receive such allocations. EPA has also completed calculations for allocations of the remaining 2017 NUSA allowances to

existing units and has posted spreadsheets containing those calculations on EPA's website as well.

**DATES:** February 16, 2018.

**FOR FURTHER INFORMATION CONTACT:**

Robert Miller at (202) 343-9077 or [miller.robert1@epa.gov](mailto:miller.robert1@epa.gov) or Kenon Smith at (202) 343-9164 or [smith.kenon@epa.gov](mailto:smith.kenon@epa.gov).

**SUPPLEMENTARY INFORMATION:** Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and in an additional Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. The procedures for identifying the eligible units for each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units are set forth in the CSAPR trading program regulations at 40 CFR 97.411(b) and 97.412 (NO<sub>x</sub> Annual), 97.511(b) and 97.512 (NO<sub>x</sub> Ozone Season Group 1), 97.611(b) and 97.612 (SO<sub>2</sub> Group 1), 97.711(b) and 97.712 (SO<sub>2</sub> Group 2), and 97.811(b) and 97.812 (NO<sub>x</sub> Ozone Season Group 2). Each NUSA allocation process involves up to two rounds of allocations to eligible units, termed "new" units, followed by the allocation to "existing" units of any allowances not allocated to new units.

In a notice of data availability (NODA) published in the **Federal Register** on December 15, 2017 (82 FR 59603), EPA provided notice of our preliminary identification of units eligible to receive second-round NUSA allocations for the 2017 control periods and described the procedure for submitting any objections. In this NODA, we are responding to objections and providing notice of our calculations of the amounts of the second-round 2017 NUSA allocations.

EPA received one objection in response to the December 15, 2017 NODA. Madison Gas and Electric Company (MG&E) submitted an objection claiming that units U1 and U2 at the West Campus Cogeneration Facility (WCCF) in Madison, Wisconsin are eligible to receive second-round 2017 NUSA allocations because the units became newly affected units under the CSAPR trading programs as of January 1, 2017. As discussed below, based on the information provided by MG&E we agree that these units are eligible to receive second-round 2017 NUSA allocations and we have therefore included the units when calculating the allocations.

WCCF units U1 and U2 are fossil fuel-fired combustion turbines that began operating in 2005. According to MG&E, through 2015 the units qualified for an exemption from CSAPR applicability that is available to certain cogeneration units, but during 2016 the units no longer met the full set of qualifying conditions for the exemption. Applying the CSAPR definitions and applicability criteria, MG&E concluded that the units would become CSAPR-affected units as of January 1, 2017 and would be deemed to “commence commercial operation” for CSAPR purposes as of that same date.<sup>1</sup> These conclusions in turn indicated a deadline of June 30, 2017 (*i.e.*, 180 calendar days after the units’ deemed date of commencement of commercial operation) for MG&E to certify monitoring systems and to begin monitoring the units’ emissions.<sup>2</sup> MG&E is required to hold allowances sufficient to cover the units’ reported emissions occurring on and after the units’ monitor certification deadline.<sup>3</sup>

Under the CSAPR regulations, a newly affected unit is treated as a “new” unit potentially eligible to receive first-round and/or second-round NUSA allocations. As relevant here, a newly affected unit is generally eligible to receive second-round NUSA allocations with respect to its reported emissions occurring on and after its monitor certification deadline in the calendar year in which the unit is deemed to have commenced commercial operation for CSAPR purposes and in the following calendar year.<sup>4</sup> EPA did not initially identify WCCF units U1 and U2 as eligible for second-round 2017 NUSA allocations because the monitoring plan MG&E submitted to us for the units included an April 26, 2005 date of commencement of commercial operation, reflecting the units’ actual operating history, rather than the January 1, 2017 deemed date of commencement of commercial operation for CSAPR purposes. Based on the additional information provided by MG&E described above, we are now using the January 1, 2017 deemed date of commencement of commercial operation to evaluate the units’ eligibility, and we consequently have included the units when calculating the second-round 2017 NUSA allocations.

The final unit-by-unit data and allowance allocation calculations are set forth in Excel spreadsheets titled

“CSAPR\_NUSA\_2017\_NOx\_Annual\_2nd\_Round\_Final\_Data\_New\_Units”, “CSAPR\_NUSA\_2017\_NOx\_Ozone\_Season\_2nd\_Round\_Final\_Data\_New\_Units”, “CSAPR\_NUSA\_2017\_SO2\_2nd\_Round\_Final\_Data\_New\_Units”, “CSAPR\_NUSA\_2017\_NOx\_Annual\_2nd\_Round\_Final\_Data\_Existing\_Units”, “CSAPR\_NUSA\_2017\_NOx\_Ozone\_Season\_2nd\_Round\_Final\_Data\_Existing\_Units”, and “CSAPR\_NUSA\_2017\_SO2\_2nd\_Round\_Final\_Data\_Existing\_Units”, available on EPA’s website at <https://www.epa.gov/csapr/csapr-compliance-year-2017-nusa-nodas>.

EPA notes that an allocation or lack of allocation of allowances to a given unit does not constitute a determination that CSAPR does or does not apply to the unit. We also note that under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit to which allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.

**Authority:** 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).

Dated: January 25, 2018.

**Reid P. Harvey,**

*Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.*

[FR Doc. 2018–03191 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9974–53–ORD; Docket ID No. EPA–HQ–ORD–2017–0747]**

### Availability of the Integrated Risk Information System (IRIS) Assessment Plan for Uranium; correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public comment period; Correction.

**SUMMARY:** The Environmental Protection Agency (EPA) announced a 30-day public comment period in the **Federal Register** of January 31, 2018, associated with the draft IRIS Assessment Plan for Uranium. The announcement contained an incorrect docket number.

**DATES:** The 30-day public comment period began on January 31, 2018, and ends March 2, 2018. Comments must be received on or before March 2, 2018.

**ADDRESSES:** The IRIS Assessment Plan for Uranium, will be available via the internet on IRIS’ website at <https://cfpub.epa.gov/ncea/iris2/>

[chemicalLanding.cfm?substance\\_nmbr=259](http://www.regulations.gov?substance_nmbr=259) and in the public docket at <http://www.regulations.gov>, Docket ID: EPA–HQ–ORD–2017–0747.

**FOR FURTHER INFORMATION CONTACT:** For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: [Docket\\_ORD@epa.gov](mailto:Docket_ORD@epa.gov).

For technical information on the draft IRIS Assessment Plan for Uranium, contact Dr. James Avery, NCEA; telephone: 202–564–1494; or email: [avery.james@epa.gov](mailto:avery.james@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. Correction

In the **Federal Register** of January 31, 2018, in FR Doc. 2018–01915, on page 4479, on the first and third columns, correct the “For Further Information Contact” and “How To Submit Technical Comments to the Docket at <http://www.regulations.gov>” caption to read: **FOR FURTHER INFORMATION CONTACT:** For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: [Docket\\_ORD@epa.gov](mailto:Docket_ORD@epa.gov).

**SUPPLEMENTARY INFORMATION:** Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2017–0747 for uranium, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [Docket\\_ORD@epa.gov](mailto:Docket_ORD@epa.gov).
- Fax: 202–566–9744.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202–566–1752.
- Hand Delivery: The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20229.

The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively

<sup>1</sup> See, *e.g.*, 40 CFR 97.404(b)(1)(ii) and 97.402 (definition of “commence commercial operation”).

<sup>2</sup> See, *e.g.*, 40 CFR 97.430(b).

<sup>3</sup> See, *e.g.*, 40 CFR 97.406(c)(3)(i).

<sup>4</sup> See, *e.g.*, 40 CFR 97.412(a)(9).

with the comments, and submit an unbound original and three copies.

**Instructions:** Direct your comments to docket number EPA–HQ–ORD–2017–0747 for uranium. Please ensure that your comments are submitted within the specified comment period.

Comments received after the closing date will be marked “late,” and may only be considered if time permits. It is EPA’s policy to include all comments it receives in the public docket without change and to make the comments available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through

[www.regulations.gov](http://www.regulations.gov) or email that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at [www.epa.gov/epahome/dockets.htm](http://www.epa.gov/epahome/dockets.htm).

**Docket:** Documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: February 7, 2018.

**Tina Bahadori,**

*Director, National Center for Environmental Assessment.*

[FR Doc. 2018–03195 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9037–6]

### Environmental Impact Statements; Notice of Availability

**Responsible Agency:** Office of Federal Activities, General Information (202) 564–7156 or <http://www2.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements Filed 02/05/2018 Through 02/09/2018 Pursuant to 40 CFR 1506.9.

#### Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA’s comment letters on EISs are available at: <http://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search>.

EIS No. 20180017, Final Supplement, FERC, FL, Southeast Market Pipelines Project, Review Period Ends: 03/19/2018, Contact: John Peconom 202–502–6352.

EIS No. 20180018, Final, USFS, MT, Tenmile—South Helena Project, Review Period Ends: 03/19/2018, Contact: Allen Byrd 406–495–3903.

EIS No. 20180019, Draft, USFS, ID, Lolo Insect & Disease Project, Comment Period Ends: 04/02/2018, Contact: Sara Daugherty 208–926–6404.

EIS No. 20180020, Draft, FERC, OK, Midcontinent Supply Header Interstate Pipeline Project, Comment Period Ends: 04/02/2018, Contact: Elaine Baum 202–502–6467.

Dated: February 12, 2018.

**Kelly Knight,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2018–03182 Filed 2–15–18; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request (OMB No. 3064–0177)

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collection, as required by the Paperwork Reduction Act of 1995. On November 28, 2017, the FDIC requested comment for 60 days on a proposal to renew the information collection described below. One comment was received and was generally supportive of the requirements in the rule but did not address the paperwork burden for this information collection. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of this collection, and again invites comment on this renewal.

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

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- <https://www.FDIC.gov/regulations/laws/federal>.
- *Email:* [comments@fdic.gov](mailto:comments@fdic.gov). Include the name and number of the collection in the subject line of the message.
- *Mail:* Jennifer Jones (202–898–6768), Counsel, MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Jones, at the FDIC address above.

**SUPPLEMENTARY INFORMATION:** On November 28, 2017, the FDIC requested comment for 60 days on a proposal to renew the information collection described below. One comment was received and was generally supportive of the requirements in the rule but did not address the paperwork burden for this information collection. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of this collection, and again invites comment on this renewal.

**Proposal To Renew the Following Currently Approved Collections of Information**

1. *Title:* Conservator or Receiver of Financial Assets Transferred by an

Insured Depository Institution in Connection With a Securitization or Participation After September 30, 2010.

*OMB Number:* 3064–0177.

*Form Number:* None.

*Affected Public:* Insured Depository Institutions.

*Burden Estimate:*

**SUMMARY OF ANNUAL BURDEN**

[3064–0177]

	Type of burden	Estimated number of respondents	Estimated number of responses (average number of transactions)	Estimated time per response	Estimated frequency	Frequency of response	Total annual estimated burden
Disclosures:							
360.6(b)(2)(i)(A), (D) Ongoing.	Disclosure .....	19	1.895	37	12.0	Monthly .....	15,984
Private Transactions Non Reg AB Compliant.	Disclosure .....	35	1.971	3	1.0	On Occasion .....	207
360.6(b)(2)(i)(D) .....	Disclosure .....	1	6.000	1	1.0	On Occasion .....	6
360.6(b)(2)(iii)(B) Initial/One-Time .....	Disclosure .....	1	6.000	1	1.0	On Occasion .....	6
360.6(b)(2)(iii)(C) .....	Disclosure .....						
Total Disclosure Burden .....							16,203
Recordkeeping:							
360.6(c)(7) .....	Recordkeeping .....	35	1.971	1	1.0	On Occasion .....	69
Total Recordkeeping Burden .....							69
Total Burden .....							16,272

**SUMMARY OF CAPITAL/START-UP COSTS**

[3064–0177]

360.6(b)(2)(i)(A), (B)—Initial/One-Time—Capital/Start-Up Costs—# of sponsors that have never done a registered transaction in particular asset class since November 23, 2016—effective date for compliance with new Reg AB—and prior to doing a private transaction		Estimated number of respondents (sponsors)	Estimated hours per respondent [(a + b) * c]	Total start up hours	Cost per hour	Total cost of annual estimated burden (internal)
Private Transactions—Auto .....	Disclosure .....	1	2,760	2,760	\$133 .....	\$367,529
Private Transactions—CMBS .....	Disclosure .....	17	3,040	51,680	\$133 .....	\$6,881,838
Private Transactions—RMBS* .....	Disclosure .....	1	5,400	5,400	\$133 .....	\$719,078
Total .....						\$7,968,444
(a) Existing systems and procedures for each required data point for all three asset classes = 10 .....					# of sponsors	19
(b) The number of hours required to adjust systems to provide asset level data in XML format for each required data point = 10.					cost/sponsor ..	\$419,391.79
(c) Estimated number of data points (per SEC Reg AB Rule PRA) = for auto 138, for CMBS 152, for RMBS 270.					.....	.....

\* For RMBS transactions, the sponsors will also incur an external cost in connection with securing a third-party due diligence report on compliance with 360.6(b)(2)(ii)(B). This cost is estimated to be \$500,000 per transaction.

**General Description of Collection:** Part 360.6 of the FDIC's regulations sets forth certain conditions that must be satisfied for a securitization transaction sponsored by an insured depository institution to be eligible for special treatment in the event that the FDIC is appointed receiver for the sponsor. Among other conditions, the securitization documents must require compliance with certain disclosure requirements (including the requirements of Regulation AB of the Securities and Exchange Commission). Conditions of eligibility for special

treatment for participations in financial assets under Part 360.6 are also set forth.

There is no change to the FDIC's Part 360.6 affecting this information collection. The change in hourly burden and initial start-up costs are mostly attributed to the SEC's changes to Regulation AB in its September 24, 2014 final rule.

**Request for Comment**

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether

the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 12th day of February 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018-03198 Filed 2-15-18; 8:45 am]

BILLING CODE 6714-01-P

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the voluntary Policy Impact Survey (FR 3075 OMB No. 7100-00362).

**DATES:** Comments must be submitted on or before April 17, 2018.

**ADDRESSES:** You may submit comments, identified by FR 3075 by any of the following methods:

- **Agency website:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Email:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include OMB number in the subject line of the message.
- **Fax:** (202) 452-3819 or (202) 452-3102.

• **Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235,

725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Federal Reserve Board's public website at: <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;
- b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal.

*Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:*

*Report title:* Policy Impact Survey.

*Agency form number:* FR 3075.

*OMB control number:* 7100-0362.

*Frequency:* On occasion, up to five times a year.

*Respondents:* Bank holding companies (BHCs), savings and loan holding companies (SLHCs), nonbank financial companies that the Financial Stability Oversight Council has determined should be supervised by the Board, and the combined domestic operations of foreign banking organizations.

*Estimated number of respondents:* 14.

*Estimated average hours per response:* 850.

*Estimated annual burden hours:* 59,500.

*General description of report:* This survey collects information from select institutions regulated by the Board in order to assess the effects of proposed, pending, or recently-adopted policy changes at the domestic and international levels. For example, the survey has been used to collect information used for certain quantitative impact studies (QISs) sponsored by bodies that the Board is a member of, such as the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB). Recent collections have included the Basel III monitoring exercise, which monitors the global impact of the Basel III framework,<sup>1</sup> the global systemically important bank (G-SIB) exercise, which assesses firms' systemic risk profiles,<sup>2</sup> and a survey of the domestic systemic risk footprint of large foreign banking organizations. The surveys have helped the Board assess changes in regulation related to systemic footprint, insurance underwriting, trading book securitization, among other areas. Since the collected data may change from survey to survey, there is no fixed reporting form.

<sup>1</sup> For more information on the Basel III monitoring exercise, including recent examples of QIS surveys sponsored by the BCBS and conducted by the Board, see [www.bis.org/bcbs/qis/](http://www.bis.org/bcbs/qis/).

<sup>2</sup> For more information on the G-SIB exercise, see [www.bis.org/bcbs/gsib/](http://www.bis.org/bcbs/gsib/).



**Legal authorization and confidentiality:** The Board is authorized to collect the information in the FR 3075 from bank holding companies (and their subsidiaries) under section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); from savings and loan holding companies under section 10(b)(2) of the Home Owners Loan Act (12 U.S.C. 1467a(b)(2)); from non-BHC/SLHC systemically important financial institutions under section 161(a) of the Dodd-Frank Act (12 U.S.C. 5361(a)); from the combined domestic operations of certain foreign banking organizations under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) and section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); from state member banks under section 9 of the Federal Reserve Act (12 U.S.C. 324); from Edge and agreement corporations under sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 602 and 625) and from U.S. branches and agencies of foreign banks under section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(2)) and under section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)).

These surveys would be conducted on a voluntary basis. The confidentiality of information provided by respondents to the FR 3075 surveys will be determined on a case-by-case basis depending on the type of information provided for a particular survey. Depending upon the survey questions, confidential treatment may be warranted under exemptions 4, 6, and 8 of the Freedom of Information Act (5 U.S.C. 552(b)(4), (6), and (8)).

**Consultation outside the agency:** Surveys conducted under the FR 3075 may include data collections sponsored by bodies such as the BCBS and the FSB.

Board of Governors of the Federal Reserve System, February 12, 2018.

**Ann E. Misback,**  
Secretary of the Board.

[FR Doc. 2018-03209 Filed 2-15-18; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 7, 2018.

**A. Federal Reserve Bank of Kansas City** (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Robert McMahan, John McMahan, and the McMahan Family Trust, Edythe McMahan, trustee, all of Altus, Oklahoma;* to retain voting shares of First Altus Bancorp, Inc., Altus, Oklahoma, and for approval to join members of the McMahan family group, which owns shares of First Altus Bancorp, Altus, Oklahoma, and owns shares of Frazer Bank, Altus, Oklahoma.

2. *Tanner Johnson, Courtland, Kansas; Travis Johnson, Wichita, Kansas; and Tara Renze, Leawood, Kansas, individually and as members of the Johnson Family Group;* to retain voting shares of Swedish-American Bancshares, Inc., and thereby indirectly retain shares of Swedish-American State Bank, both of Courtland, Kansas.

Board of Governors of the Federal Reserve System, February 13, 2018.

**Ann Misback,**  
Secretary of the Board.

[FR Doc. 2018-03262 Filed 2-15-18; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

**AGENCY:** Federal Trade Commission ("FTC" or "Commission").

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC intends to ask OMB to extend for an additional three years the current PRA clearance for the FTC's enforcement of the information collection requirements in its Fair Packaging and Labeling Act regulations ("FPLA Rules"). That clearance expires on April 30, 2018.

**DATES:** Comments must be filed by March 19, 2018.

**ADDRESSES:** Interested parties may file a comment online or on paper, by

following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "FPLA Rules, PRA Comment, P074200" on your comment and file your comment online at <https://ftcpublish.commentworks.com/ftc/fplaregspra2> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Megan Gray, Attorney, Division of Enforcement, Bureau of Consumer Protection, (202) 326-3408, [mgray@ftc.gov](mailto:mgray@ftc.gov), 600 Pennsylvania Ave. NW, Room CC-9541, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** On December 6, 2017, the FTC sought public comment on the information collection requirements associated with the FPLA Rules (December 6, 2017 Notice <sup>1</sup>), 16 CFR parts 500-503 (OMB Control Number 3084-0110).<sup>2</sup> No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rules.

### Burden Statement

As detailed in the December 6, 2017 Notice, the FTC estimates cumulative annual burden on affected entities to be 8,084,250 hours and \$199,680,975 in labor costs. Commission staff believes that the FPLA Rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies and/or equipment already (*e.g.*, offices and computers) to implement the packaging and labeling disclosure requirements under the FPLA Rules.

<sup>1</sup> 82 FR 57599.

<sup>2</sup> Section 4 of the FPLA specifically requires packages or labels to be marked with: (1) A statement of identity; (2) a net quantity of contents disclosure; and (3) the name and place of business of the company responsible for the product. The FPLA Rules, 16 CFR parts 500-503, specify how manufacturers, packagers, and distributors of "consumer commodities" must do this.

### Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before March 19, 2018. Write "FPLA Rules, PRA Comment, P074200" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at <http://www.ftc.gov/os/publiccomments.shtm>.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/fplaregspra2>, by following the instructions on the web-based form. When this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that website.

If you file your comment on paper, write "FPLA Rules, PRA Comment, P074200" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at <https://www.ftc.gov/>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any

commercial or financial information which \* \* \* is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 19, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>. For supporting documentation and other information underlying the PRA discussion in this Notice, see <http://www.reginfo.gov/public/jsp/PRA/pradashboard.jsp>.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead

can also be sent by email to [wliberante@omb.eop.gov](mailto:wliberante@omb.eop.gov).

David C. Shonka,  
Acting General Counsel.

[FR Doc. 2018-03289 Filed 2-15-18; 8:45 am]

BILLING CODE 6750-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** Through this Request for Information (RFI), the Agency for Healthcare Research and Quality (AHRQ) is seeking information from the public, hospitals and other health care organizations, clinicians, quality improvement experts, researchers, and quality measure developers about current use of the AHRQ Quality Indicators (AHRQ QIs) for quality improvement efforts. AHRQ recognizes that the AHRQ QIs have been adopted for other uses, but for the purpose of this RFI, the Agency is specifically seeking information about quality improvement initiatives such as those that seek to: Improve clinical practice (e.g., adherence to guidelines, coordination of care); improve patient safety or reduce harm; address disparities in health or care; improve prevention practices; and collaborate with community groups to improve health or care. AHRQ is also seeking information about the ways in which the Agency can increase use of the AHRQ QI measures for quality improvement, for example by refining measures, summarizing best practices, creating training materials, developing standardized metrics, and/or convening learning networks. To learn more about the AHRQ QIs, visit <https://www.qualityindicators.ahrq.gov/>.

**DATES:** Comments on this notice must be received by the deadline on or before March 8, 2018.

**ADDRESSES:** Written comments should be submitted to: Maushami DeSoto, Ph.D., MHA, Health Scientist Administrator, Center for Delivery Organization and Markets, Agency for Healthcare Research and Quality, 5600 Fishers Lane, Rockville, MD 20857, or by email at [Maushami.Desoto@ahrq.hhs.gov](mailto:Maushami.Desoto@ahrq.hhs.gov).

**FOR FURTHER INFORMATION CONTACT:**

Maushami DeSoto, Ph.D. MHA, Health Scientist Administrator, (301) 427-1546, or by emails at [Maushami.Desoto@ahrq.hhs.gov](mailto:Maushami.Desoto@ahrq.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The mission of AHRQ is to produce evidence to make health care safer; higher quality; and more accessible, equitable, and affordable. AHRQ works within the U.S. Department of Health and Human Services and with other public and private partners to make sure that the evidence is understood and used. The Agency fulfills this mission by supporting and conducting research; generating needed evidence; disseminating proven practices; creating and distributing training materials for health care systems and professionals; and developing measures and data used to track and improve performance. To learn more about the Agency, visit <https://www.ahrq.gov/>.

**Background**

Over the years, use of the AHRQ QIs has evolved. Originally developed to support quality improvement at the hospital and community levels, the AHRQ QIs now serve several additional purposes including: (1) Research; (2) needs assessments for planning at the local, state, and national levels; and (3) performance assessment by private and public value-based payment and consumer choice programs. In the current context, in which the purposes and methods of measurement continue to change rapidly, AHRQ is seeking updated information to inform its own planning and priority setting for future work in the area of measures for quality improvement. To do so, AHRQ must define evidence criteria that are specific to quality improvement and use those criteria to determine which AHRQ QIs work best for quality improvement and how they can be improved for that purpose.

As part of this effort, AHRQ is conducting a literature review and environmental scan to: (1) Document knowledge and evidence on the scientific acceptability of the AHRQ QIs for quality improvement; (2) document and synthesize information about the strengths and limitations of the AHRQ QIs; (3) identify areas of disagreement, if any, in the evidence; and (4) develop suggestions for refinement or improvement in the indicators, particularly those that make the AHRQ QIs more useful for quality improvement. As part of the environmental scan, AHRQ is issuing this RFI to obtain information from stakeholders who have not published

their experiences using the AHRQ QIs or who wish to provide additional information beyond what they have published. AHRQ will review results from the literature review and environmental scan and release a summary report in December 2018.

Specific questions of interest to the Agency include, but are not limited to:

**For Hospitals or Other Health Care Entities That CURRENTLY USE AHRQ QIs for Quality Improvement:**

1. What type of organization do you represent?
2. How does your organization define quality improvement?
3. How does your organization use the AHRQ QIs for quality improvement? For example, do you use them for identifying patient safety problems, identifying quality improvement opportunities, and/or tracking performance over time?
4. Which specific AHRQ QIs does your organization use for quality improvement? Please include the number of each QI, for example, PQI 05, which can be found at the AHRQ QI website.
5. Have you stopped using an AHRQ QI for quality improvement? If yes, please identify it and explain why you stopped.
6. Of the AHRQ QIs you use now or used previously, which ones have been most valuable in improving quality?
  - a. What are the strengths of each measure you have used?
  - b. What are the weaknesses of each measure you have used?
7. What other methodological and/or data quality issues have you encountered when using AHRQ QIs for quality improvement that you haven't already mentioned?
8. Does your organization use measures other than the AHRQ QIs for quality improvement? If yes, which ones and what types of quality improvement initiatives does your organization use them for? How do they compare to the AHRQ QIs in terms of ease of use and impact on quality?
9. What changes and refinements to the AHRQ QIs would make them easier to use for quality improvement?
10. What changes and refinements to the AHRQ QIs would make them more effective for improving quality?
11. What resources would aid the uptake of the AHRQ QIs for quality improvement?
12. What improvements are needed to current AHRQ QI resources? These include resources available through the QI website such as tool kits, case studies, webinars, presentations, publication lists, video tutorials (WinQI

and SASQI), measure technical specifications (IQI, PQI, PSI, PDI), TA support, FAQs, and software.

13. If you operate a community health center, which AHRQ QIs do you use for quality improvement in the community health center? Which other measures do you use for quality improvement in the community health center?

14. If you operate a hospital emergency department (ED), which AHRQ QIs do you use for quality improvement in the ED? Which other measures do you use for quality improvement in the ED?

**For Hospitals or Other Health Care Entities That Are NOT CURRENTLY USING Any AHRQ QIs for Quality Improvement:**

15. How does your organization define quality improvement?
  16. What types of quality improvement initiatives does your organization engage in?
  17. Have you heard of the AHRQ QIs? If yes, what do you know about them?
  18. What factors contribute to your organization's decision to not use the AHRQ QIs?
  19. Has your organization used the AHRQ QIs in the past? If so, why is your organization no longer using them?
  20. What measures does your organization use for quality improvement? What are some of the reasons/factors your organization uses these measures?
  21. If you operate a community health center, which measures do you use for quality improvement?
  22. If you operate a hospital emergency department (ED), which measures do you use for quality improvement?
  23. If your organization is a community health center, which metrics do you use for quality improvement?
  24. If your organization is an ED which metrics do you use for quality improvement and monitoring?
- AHRQ is interested in all the questions listed above, but respondents are welcome to address as many or as few as they choose and to address additional areas of interest not listed. AHRQ will use the information it receives to assist in developing future initiatives. These initiatives may include, but are not limited to, developing research grant and contracting opportunities, investing in the creation of tools and training materials for health professionals and health care delivery organizations, developing quality improvement measures, and/or convening learning collaboratives.

Health care professionals and organizations are encouraged to respond to this RFI by submitting a written statement and supporting explanatory materials to the email or mailing address listed above by February 28, 2018. Supporting materials might include charters for quality and safety improvement committees, data use agreements for learning collaboratives, population health metrics and reports, or guidelines for the use of evidence-based practices. When responding to questions listed above, please clearly indicate the number of the question that is being addressed. AHRQ encourages respondents to include a description of their health care delivery organization at the beginning of their response to provide context for the information they provide.

### Request for Comments

This RFI is for planning purposes only and should not be construed as a policy, solicitation for applications, or as an obligation on the part of the Government to provide support for any ideas identified in response to it. AHRQ will use the information submitted in response to this RFI at its discretion and will not provide comments to any responder's submission. However, responses to the RFI may be reflected in future solicitation(s) or policies. The information provided will be analyzed and may appear in reports. Respondents will not be identified in any published reports. Respondents are advised that the Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential, or sensitive information should be included in your response. The Government reserves the right to use any non-proprietary technical information in any resultant solicitation(s). The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public.

**Gopal Khanna,**

*Director.*

[FR Doc. 2018-03243 Filed 2-15-18; 8:45 am]

**BILLING CODE 4160-90-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket Nos. FDA-2015-E-3856; FDA-2015-E-3857]

### Determination of Regulatory Review Period for Purposes of Patent Extension; MOVANTIK

**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 MOVANTIK and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

**DATES:** Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by April 17, 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 17, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of April 17, 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. 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 15, 2018. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

### Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically,

including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

### Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket Nos. FDA 2015-E-3856 and FDA 2015-E-3857 for "Determination of Regulatory Review Period for Purposes of Patent Extension; MOVANTIK." 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: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

**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 MOVANTIK (naloxegol oxalate). MOVANTIK is indicated for the treatment of opioid-induced constipation in adult patients with chronic non-cancer pain. Subsequent to this approval, the USPTO received patent term restoration applications for MOVANTIK (U.S. Patent Nos. 7,662,365 and 7,786,133) from Nektar Therapeutics, and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated October 30, 2015, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of MOVANTIK 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 MOVANTIK is 2,493 days. Of this time, 2,127 days occurred during the testing phase of the regulatory review period, while 366 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:* November 21, 2007. The applicant claims October 22, 2007, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 21, 2007, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* September 16, 2013. FDA has verified the applicant's claim that the new drug application (NDA) for MOVANTIK (NDA 204760) was initially submitted on September 16, 2013.

3. *The date the application was approved:* September 16, 2014. FDA has verified the applicant's claim that NDA 204760 was approved on September 16, 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 applications for patent extension, this applicant seeks 1,020 days or 272 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: February 13, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03245 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

##### **Food and Drug Administration**

**[Docket No. FDA-2018-D-0481]**

##### **Submission of Content Necessary for Bioresearch Monitoring Inspection Planning for the Center of Drug Evaluation and Research; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is announcing the availability of a draft guidance for industry entitled “Standardized Format for Electronic Submission of NDA and BLA Content for the Planning of Bioresearch Monitoring (BIMO) Inspections for CDER Submissions” along with the Bioresearch Monitoring Technical Conformance Guide Containing Technical Specifications (BIMO Technical Conformance Guide). The draft guidance and BIMO Technical Conformance Guide describe and provide specifications for the electronic submission of certain data and information in standardized formats. This information is used by the Center for Drug Evaluation and Research (CDER) in the planning of, and by FDA’s Office of Regulatory Affairs (ORA) in the conduct of, bioresearch monitoring (BIMO) inspections. The draft guidance addresses major (*i.e.*, pivotal) studies used to support safety and efficacy claims in new drug applications (NDAs) and biologics license applications (BLAs) regulated by CDER, as well as certain supplemental applications containing new clinical study reports. This draft guidance, when finalized, is intended to assist applicants in the submission of electronic data and information in standardized formats, and supersedes the previously issued draft guidance entitled “Providing Submissions in Electronic Format—Summary Level Clinical Site Data for CDER’s Inspection Planning” (December 2012) (Summary Level Clinical Site Draft Guidance).

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 17, 2018.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a

third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA–2018–D–0481 for “Standardized Format for Electronic Submission of New Drug Application and Certain Biologics License Application Content for the Planning of Bioresearch Monitoring Inspections for Submissions to the Center for Drug Evaluation and Research; Draft Guidance for Industry; Bioresearch Monitoring Technical Conformance Guide Containing Technical Specifications; Availability.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states, “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the

claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments, and you must identify this information as “confidential.” Any information marked “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box, and follow the prompts; and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Jean Mulinde, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–0768.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

FDA is announcing the availability of: (1) A draft guidance for industry entitled “Standardized Format for Electronic Submission of NDA and BLA Content for the Planning of Bioresearch Monitoring Inspections (BIMO) for CDER Submissions” and (2) the BIMO Technical Conformance Guide. This draft guidance and the BIMO Technical Conformance Guide describe and provide specifications for the electronic submission of data and information in standardized formats, for submitting information used by CDER in the planning of, and by ORA in the conduct

of, BIMO inspections. The draft guidance and the technical conformance guide address major (*i.e.*, pivotal) studies used to support safety and efficacy claims in NDAs, BLAs, and NDA and BLA supplemental applications containing new clinical study reports that are regulated by CDER.

To meet its review performance goals in accordance with CDER good review management principles and practices for products covered by the Prescription Drug User Fee Act, CDER generally initiates inspection planning early in the application review process (*i.e.*, during the filing determination and review planning phase). CDER's inspection planning includes the selection of clinical investigator sites and other regulated entities for on-site inspections, and the preparation of assignment memos and background packages that CDER provides to FDA's ORA, which performs FDA's BIMO inspections. CDER uses the data and information described in this guidance to plan BIMO inspections, including: (1) To facilitate the timely identification of sites for inspection and (2) to ensure the availability of information needed to conduct BIMO inspections by ORA investigators.

This draft guidance and the associated technical conformance guide supersede the previously issued Summary Level Clinical Site Draft Guidance that published in the **Federal Register** on December 19, 2012 (77 FR 75174). FDA carefully considered all of the comments received to the docket for the Summary Level Clinical Site Draft Guidance in developing this guidance. This draft guidance includes clarifications, additional detail on some topics, revised nomenclature for some data variables, and descriptions of additional data and information in standardized formats that are submitted in NDAs and BLAs to CDER, to facilitate the planning of routine BIMO inspections.

In section 745A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379k–1(a)), Congress granted explicit authorization to FDA to specify, in guidance, the electronic format for submissions under section 505(b), (i), or (j) of the FD&C Act (21 U.S.C. 355(b), (i), or (j)) and submissions under section 351(a) or (k) of the Public Health Service Act (42 U.S.C. 262(a) or (k)). Accordingly, to the extent that this guidance, when finalized, provides such requirements, as indicated by the use of the words *must* or *required*, this guidance will not be subject to the usual restrictions in FDA's good guidance practice (GGP) regulations, such as the

requirement that guidances not establish legally enforceable responsibilities (see 21 CFR 10.115(d); see also the guidance for industry "Providing Regulatory Submissions in Electronic Format—Submissions Under Section 745A(a) of the Federal Food, Drug, and Cosmetic Act," available at <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>.

To comply with GGP regulations and make sure that regulated entities and the public understand that guidance documents are nonbinding, FDA guidances ordinarily contain standard language explaining that guidance documents should be viewed only as recommendations unless specific regulatory or statutory requirements are cited. FDA is not including this standard language in this draft guidance document because it is not an accurate description of this guidance. Insofar as this guidance specifies the format for electronic submissions pursuant to section 745A(a) of the FD&C Act, when finalized, it will have binding effect.

The draft guidance and the BIMO Technical Conformance Guide, when finalized, will represent the current thinking of FDA on standardized format for electronic submission of NDA and BLA content for the planning of BIMO inspections for CDER Submissions.

## II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing this notice of the proposed collection of information set forth in this document.

With respect to the collection of information associated with this draft guidance and the associated technical conformance guide, FDA invites comments on the following topics: (1) Whether the proposed information collected is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimated burden of the proposed

information collected, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of information collected on the respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

The draft guidance and the Bioresearch Monitoring Technical Conformance Guide provide the electronic format and specifications for submission of data and information used by CDER in the planning of, and by ORA in the conduct of, BIMO inspections. Data and information described in the draft guidance comprises information required in parts 312, 314, or 601 (21 CFR parts 312, 314, or 601), including case histories (§ 312.62(b)), information regarding foreign clinical studies not conducted under an investigational new drug application (IND) (§ 312.120), and the clinical data section (§ 314.50(d)(5)) and case report forms and tabulations (§ 314.50(f)), or in part 601 (§ 601.2 Applications for biologics licenses; procedures for filing) in an NDA, BLA, or supplement. The draft guidance and the associated technical conformance guide describe the electronic format of clinical study-level information, subject-level data line listings by clinical site, and the summary-level clinical site dataset that are submitted from all major (*i.e.*, pivotal) studies used to support safety and efficacy claims in NDAs, BLAs, and NDA and BLA supplemental applications containing new clinical study reports. The variables described in the format are elements currently used in other submissions; some of the variable names described in the summary-level clinical site dataset are new. The financial disclosure information is currently reported in Module 1 (region specific information) of the electronic common technical document, but is new as a variable in the summary-level clinical site dataset. In addition, identifying that a study has been conducted under an IND is new as a request in a dataset. Initial preparation of some of the clinical study-level information, the subject-level data line listings by clinical site, and the summary-level clinical site dataset and the development of new standard operating procedures (SOPs) would require added time. Once SOPs have been established, generation of the clinical study-level information, subject-level data line listings by clinical site, and the summary-level clinical site dataset should not involve significant



additional work. The applicant would likely perform more quality assurance, which may add time to preparation and review of the submission.

Based on CDER's data on the number of NDAs, BLAs, and NDA and BLA supplemental applications containing new clinical study reports that would be covered by the draft guidance, we estimate that each year approximately 75 applicants will submit for 125 original NDA or BLA applications and 152 supplemental applications containing new clinical study reports. We estimate that the submission of the clinical study-level information, subject-level data line listings by clinical site, and the summary-level clinical site

dataset for each application would take approximately 40 hours to prepare. Initial preparation of the clinical study-level information, subject-level data line listings by clinical site, and the summary-level clinical site dataset could involve the development of new SOPs for some applicants. We estimate that 75 applicants would take approximately 20 hours to develop and subsequently 2 hours annually to maintain and update the SOP(s). The clinical study-level information, subject-level data line listings by clinical site, and the summary-level clinical site dataset submitted with each application would likely involve additional quality

assurance procedures, which would add approximately 2 hours for each submission.

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in part 312 have been approved under OMB control number 0910-0014; the collections of information in part 314 have been approved under OMB control number 0910-0001; the collections of information in part 601 have been approved under OMB control number 0910-0338.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED REPORTING BURDEN <sup>1</sup>

Activity	Number of respondents (i.e., applicants)	Number of responses per respondent (i.e., applications)	Total responses	Hours per response	Total hours
Submissions (clinical study-level information, subject-level data line listings by clinical site, and the summary-level clinical site dataset) .....	75	3.7	277	40	11,080
Quality Assurance .....	75	3.7	277	2	554
Total .....					11,634

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this information collection.

TABLE 2—ESTIMATED RECORDKEEPING BURDEN <sup>1</sup>

Activity	Number of recordkeepers	Number of records per recordkeeper	Total records	Hours per recordkeeper	Total hours
Develop Initial SOP(s) .....	75	1	75	20	1,500
Maintain and Update SOP(s) .....	75	1	75	2	150
Total .....					1,650

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this information collection.

## II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: February 9, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03236 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2017-P-4852]

#### Determination That LOTENSIN HCT (Benazepril Hydrochloride; Hydrochlorothiazide) Oral Tablets, 5 Milligrams and 6.25 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) has determined that LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 milligrams (mg) and 6.25 mg, were not

withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for benazepril hydrochloride; hydrochlorothiazide oral tablets, 5 mg and 6.25 mg, if all other legal and regulatory requirements are met.

#### FOR FURTHER INFORMATION CONTACT:

Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993-0002, 301-796-8363, [Stacy.Kane@fda.hhs.gov](mailto:Stacy.Kane@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate



versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the “listed drug,” which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, are the subject of NDA 020033, held by U.S. Pharmaceutical Holdings I, LLC, and initially approved on May 19, 1992. LOTENSIN HCT is indicated for the relief of symptoms of depression. LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, are currently listed in the “Discontinued Drug Product List” section of the Orange Book.

EAS Consulting Group, LLC submitted a citizen petition dated August 9, 2017 (Docket No. FDA-2017-P-4852), under 21 CFR 10.30, requesting that the Agency determine whether LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this

time, FDA has determined under § 314.161 that LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that these products were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, from sale. We have also independently evaluated relevant literature and data for possible post-marketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to LOTENSIN HCT (benazepril hydrochloride; hydrochlorothiazide) oral tablets, 5 mg and 6.25 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 9, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03188 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2013-N-0035]

#### **Amyotrophic Lateral Sclerosis: Developing Drugs for Treatment; Draft Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is

announcing the availability of a draft guidance for industry entitled “Amyotrophic Lateral Sclerosis: Developing Drugs for Treatment.” The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of amyotrophic lateral sclerosis (ALS). Specifically, it addresses FDA’s current thinking regarding the clinical development program and clinical trial designs for drugs to support an indication for the treatment of ALS. This guidance addresses the clinical development of drugs intended to treat the main neuromuscular aspects of ALS (*i.e.*, muscle weakness and its direct consequences, including shortened survival).

**DATES:** Submit either electronic or written comments on the draft guidance by April 17, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA–2013–N–0035 for “Amyotrophic Lateral Sclerosis: Developing Drugs for Treatment; Draft Guidance for Industry”. Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:**

Billy Dunn, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4332, Silver Spring, MD 20993–0002, 301–796–2250.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is announcing the availability of a draft guidance for industry entitled “Amyotrophic Lateral Sclerosis: Developing Drugs for Treatment.” ALS is a progressive neurodegenerative disease that primarily affects motor neurons in the cerebral motor cortex, brainstem, and spinal cord, leading to loss of voluntary movement and difficulty in swallowing, speaking, and breathing. The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of ALS. Specifically, it addresses FDA’s current thinking regarding the clinical development program and clinical trial designs for drugs to support an indication for the treatment of ALS. This guidance addresses the clinical development of drugs intended to treat the main neuromuscular aspects of ALS (*i.e.*, muscle weakness and its direct consequences, including shortened survival).

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on developing drugs for the treatment of ALS. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

**II. Paperwork Reduction Act of 1995**

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995

(44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014, the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001, and the collections of information referred to in the guidance for industry entitled “Establishment and Operation of Clinical Trial Data Monitoring Committees” (available at <https://www.fda.gov/downloads/RegulatoryInformation/Guidances/ucm127073.pdf>) have been approved under OMB control number 0910–0581.

**III. Electronic Access**

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–03222 Filed 2–15–18; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA–2018–N–0468]

**Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Endocrinologic and Metabolic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

**DATES:** The meeting will be held on May 10, 2018, from 8 a.m. to 5 p.m.

**ADDRESSES:** Tommy Douglas Conference Center, the Ballroom, 10000 New Hampshire Ave., Silver Spring, MD 20903. The conference center’s telephone number is 240–645–4000. Answers to commonly asked questions about FDA Advisory Committee meetings may be accessed at: <https://www.fda.gov/AdvisoryCommittees/>

*About Advisory Committees/ucm408555.htm*. Information about the Tommy Douglas Conference Center can be accessed at: <http://www.tommydouglascenter.com>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2018-N-0468. The docket will close on May 9, 2018. Submit either electronic or written comments on this public meeting by May 9, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 9, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of May 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.

Comments received on or before April 26, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket No. FDA-2018-N-0468 for "Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." FDA 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 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 the information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the

heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

#### **FOR FURTHER INFORMATION CONTACT:**

LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 301-796-9001, Fax: 301-847-8533, email: [EMDAC@fda.hhs.gov](mailto:EMDAC@fda.hhs.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

#### **SUPPLEMENTARY INFORMATION:**

**Agenda:** The committee will discuss the safety and efficacy of new drug application (NDA) 210645, for volanesoren solution for subcutaneous injection, submitted by Akcea Therapeutics, Inc. The proposed indication is as an adjunct to diet for the treatment of patients with familial chylomicronemia syndrome.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the docket (see **ADDRESSES**) on or before April 26, 2018, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief

statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 18, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 19, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at [fdaoma@fda.hhs.gov](mailto:fdaoma@fda.hhs.gov) or 301-796-4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact LaToya Bonner (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 9, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03237 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2015-D-1884]

#### Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is

announcing the availability of a guidance for industry entitled "Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment." The purpose of this guidance is to assist sponsors in the clinical development of drugs for the treatment of X-linked Duchenne muscular dystrophy (DMD) and related dystrophinopathies. This guidance finalizes the draft guidance of the same name issued on June 10, 2015.

**DATES:** The announcement of the guidance is published in the **Federal Register** on February 16, 2018.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket No. FDA-

2015-D-1884 for "Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment; Guidance for Industry; Availability." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-

0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:**

Colleen Locicero, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4242, Silver Spring, MD 20993-0002, 301-796-1114.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is announcing the availability of a guidance for industry entitled “Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment.” DMD and other dystrophinopathies result from genetic mutations in the dystrophin gene that decrease levels of dystrophin and/or cause dysfunction of the dystrophin protein, leading to muscle degeneration, including cardiac and respiratory muscles, and greatly decreased life expectancy. There remains a high-level unmet medical need for effective drug treatments for DMD and other dystrophinopathies. This guidance addresses FDA’s current thinking regarding the clinical development program and clinical trial designs for drugs to support an indication for the treatment of dystrophinopathies. This guidance finalizes the draft guidance of the same name issued June 10, 2015 (80 FR 32961). It reflects FDA’s consideration of public comments on the draft guidance and makes minor clarifying changes.

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on developing drugs for the treatment of DMD. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

**II. Paperwork Reduction Act of 1995**

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910-0014 and 0910-0001, respectively.

**III. Electronic Access**

Persons with access to the internet may obtain the guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03225 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2017-D-0040]

**How To Prepare a Pre-Request for Designation; Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled “How to Prepare a Pre-Request for Designation (Pre-RFD).” The purpose of this guidance is to explain the Pre-RFD process at the FDA Office of Combination Products (OCP), describe and help a sponsor understand the type of information that the sponsor should include in a Pre-RFD, and assist sponsors in obtaining a preliminary assessment from FDA through the Pre-RFD process. The Pre-RFD process is available to provide informal, non-binding feedback regarding the regulatory identity or classification of a human medical product as a drug, device, biological product, or combination product. In addition, this informal process provides information about a non-combination or combination product’s assignment to the appropriate Agency Center (Center for Drug Evaluation and Research (CDER), Center for Devices and Radiological Health (CDRH), or Center for Biologics Evaluation and Research (CBER)) for premarket review and regulation.

**DATES:** The announcement of the guidance is published in the **Federal Register** on February 16, 2018.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA-2017-D-0040 for “How to Prepare a Pre-Request for Designation (Pre-RFD); Guidance for Industry.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

“THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for a single copies of this guidance entitled “How to Prepare a Pre-Request for Designation (Pre-RFD)” to the Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

#### FOR FURTHER INFORMATION CONTACT:

Leigh Hayes, Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993-0002, 301-796-8930.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Since its establishment on December 24, 2002, OCP has served as a resource for sponsors at various stages of development of their products. Sponsors often seek OCP feedback on

whether their human medical product will be regulated as a drug, a device, a biologic, or a combination product, and which FDA medical product Agency Center (CDER, CBER, or CDRH) will regulate it, if it is a non-combination product, or will have the primary jurisdiction for the premarket review and regulation of the product, if it is a combination product.

There are two ways that a sponsor can receive such a feedback from OCP. One option is to submit an RFD to receive a formal, binding determination for the sponsor’s product with respect to classification and/or center assignment that may be changed under conditions specified in section 563 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb-2) and 21 CFR 3.9 in the regulations. The RFD process is codified in 21 CFR part 3, and OCP has issued a guidance about this process (see “How to Write a Request for Designation” at <https://www.fda.gov/RegulatoryInformation/Guidances/ucm126053.htm>). A second more flexible option is for a sponsor to submit an inquiry to OCP to receive a preliminary jurisdictional assessment, which is not binding.

Many sponsors seek to utilize a more flexible, approachable way to interact with OCP and the medical product Agency Centers, to obtain feedback from the Agency before submitting a marketing application to the Agency. Over time, these informal methods of obtaining feedback have become increasingly customary with sponsors, and for some, even preferable to the formal RFD process. Accordingly, FDA is enhancing the transparency and consistency of such interaction, which will now be called the “Pre-Request for Designation (Pre-RFD) Program.”

This guidance describes this structured process with clear recommendations for sponsors wishing to submit Pre-RFDs. It also provides the process for review of Pre-RFDs by FDA staff, the general timeframes for sponsors to receive feedback from OCP, and the process for scheduling teleconferences and meetings in relation to a Pre-RFD.

FDA carefully considered the comments received on the draft guidance, and, where appropriate, has revised the guidance to reflect such comments. FDA encourages stakeholders to contact OCP if they have additional questions.

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency’s current thinking on how to prepare a Pre-RFD. It does not establish any rights

for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

##### II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in this guidance regarding how to prepare a Pre-RFD have been approved under OMB control number 0910-0845.

##### III. Electronic Access

Persons with access to the internet may obtain the document at <https://www.fda.gov/RegulatoryInformation/Guidances/ucm534661.htm>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03230 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2018-N-0404]

### Pediatric Medical Device Development; Public Meeting; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public meeting entitled “Pediatric Medical Device Development.” The purpose of the public meeting is to identify strategies to enhance the medical device ecosystem to cultivate development and innovation of devices that serve the unique needs of pediatric populations. (The Federal Food, Drug, and Cosmetic Act (FD&C Act) defines pediatric patients, for medical device purposes, as age 21 years or younger at the time of diagnosis or treatment and specifies categories of pediatric subpopulations.) Topics for discussion will include ways to improve research infrastructure and research networks to facilitate the conduct of clinical studies of pediatric devices, extrapolation, use of postmarket registries and data to increase pediatric medical device

labeling, assistance to medical device manufacturers in developing devices for pediatric populations, and identifying barriers to pediatric device development and incentives to address such barriers.

**DATES:** The public meeting will be held on August 13 and August 14, 2018, from 9 a.m. to 5 p.m. Submit either electronic or written comments on this public meeting by September 14, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration information.

**ADDRESSES:** The public meeting will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, Rm. 1503 (the Great Room), Silver Spring, MD 20993-0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to <https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm>.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 14, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of September 14, 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-2018-N-0404 for "Pediatric Medical Device Development; Public Meeting; Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/>

[fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf](https://www.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:

Victoria Wagman, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5562, Silver Spring, MD 20993, 301-796-6581, [Victoria.Wagman@fda.hhs.gov](mailto:Victoria.Wagman@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

For more than a decade, legislative changes and regulatory process improvements have been implemented to facilitate development of medical devices that serve the unique needs of pediatric populations. The FD&C Act defines pediatric patients, for medical device purposes, as age 21 years or younger at the time of diagnosis or treatment and specifies categories of pediatric subpopulations (see section 520(m)(6)(E) of the FD&C Act (21 U.S.C. 360j(m)(6)(E))). Nevertheless, children and those who care for them continue to have limited medical device options. FDA seeks to identify opportunities to support development and innovation of medical devices designed and labeled for children. Engaging in such opportunities will not only serve children and their families but optimize the medical device ecosystem for all. The Agency invites all stakeholders, including representatives from the medical device industry, academia, recipients of funding under section 305 of the Pediatric Medical Device Safety and Improvement Act of 2007, medical provider organizations, and organizations and individuals representing patients and consumers to collaborate with us in addressing this important public health issue (See Pub. L. 110-85; 42 U.S.C. 282 note).

FDA guidance documents entitled "Premarket Assessment of Pediatric Medical Devices," "Providing Information about Pediatric Uses of Medical Devices," and "Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices," provide background information regarding pediatric medical device development (Refs. 1 to 3).



## II. Topics for Discussion at the Public Meeting

As mandated by section 502(d) of the FDA Reauthorization Act of 2017 (FDARA), this FDA meeting on the development and labeling of pediatric medical devices is being convened with representatives from the medical device industry, academia, recipients of funding under section 305 of the Pediatric Medical Device Safety and Improvement Act of 2007, medical provider organizations, and organizations representing patients and consumers (see Pub. L. 110–85; 42 U.S.C. 282 note).

As directly outlined in FDARA, the meeting shall include consideration of ways to: (1) Improve research infrastructure and research networks to facilitate the conduct of clinical studies of devices for pediatric populations that would result in the approval or clearance, and labeling of medical devices for such populations; (2) appropriately use extrapolation under section 515A(b) of the FD&C Act (21 U.S.C. 360e–1(b)); (3) enhance the appropriate use of postmarket registries and data to increase pediatric medical device labeling; (4) increase FDA assistance to medical device manufacturers in developing devices for pediatric populations that are approved or cleared, and labeled, for their use; and (5) identify current barriers to pediatric device development and incentives to address such barriers.

A detailed agenda will be posted on the following website in advance of the workshop at <https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm>. Select this event from the list of items provided.

## III. Participating in the Public Meeting

**Registration:** To register for the public meeting, please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar at <https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm>. (Select this public workshop from the posted events list.) Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone number.

Registration is free, and in-person attendance is based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by August 6, 2018, 3 p.m. Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the

number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public meeting.

If you need special accommodations due to a disability, please contact Peggy Roney at the Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5231, Silver Spring, MD 20993–0002, 301–796–5671, [Peggy.Roney@fda.hhs.gov](mailto:Peggy.Roney@fda.hhs.gov), no later than June 1, 2018.

**Requests for Oral Presentations:** During online registration, you may indicate if you wish to present during a public comment session and which topic(s) you wish to address. FDA will do its best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. We encourage persons who are interested in making an oral presentation during a public comment session to indicate their intent on the registration form by 3 p.m. Eastern Time on June 29, 2018. Based on the number of applicants for oral presentations, FDA will distribute the available time equally among all presenters and inform selected presenters of the public presentation agenda by July 6, 2018. If selected for presentation, any presentation materials must be emailed to Victoria Wagman at [Victoria.wagman@fda.hhs.gov](mailto:Victoria.wagman@fda.hhs.gov) no later than July 13, 2018. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

**Streaming Webcast of the public meeting:** This public meeting will also be webcast. The webcast link will be available on the registration web page after August 6, 2018. Please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar (<https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm>) and select this event from the list of items provided. Organizations are requested to register all participants but view using one connection per location.

If you have never attended a Connect Pro event before, test your connection at [https://collaboration.fda.gov/common/help/en/support/meeting\\_test.htm](https://collaboration.fda.gov/common/help/en/support/meeting_test.htm). To get a quick overview of the Connect Pro program, visit <https://www.adobe.com/>

[go/connectpro\\_overview](https://www.fda.gov/connectpro_overview). FDA has verified the website addresses in this document as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

**Transcripts:** Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at <https://www.regulations.gov>. It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at <https://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm>. (Select this public workshop from the posted events list.)

## IV. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>.

1. FDA's guidance for Industry and FDA Staff: "Premarket Assessment of Pediatric Medical Devices," available at <https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089742.pdf>.

2. FDA's guidance for Industry and FDA Staff: "Providing Information about Pediatric Uses of Medical Devices," available at <https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM339465.pdf>.

3. FDA's guidance for Industry and FDA Staff: "Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices," available at <https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm444591.pdf>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–03215 Filed 2–15–18; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket Nos. FDA–2016–E–2512 and FDA–2016–E–2511]

### Determination of Regulatory Review Period for Purposes of Patent Extension; COTELLIC

**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 COTELLIC and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

**DATES:** Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by April 17, 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 15, 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 17, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of April 17, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

#### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the

public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket Nos. FDA-2016-E-2512 and FDA-2016-E-2511 for "Determination of Regulatory Review Period for Purposes of Patent Extension; COTELLIC." 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 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](https://www.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 COTELLIC (cobimetinib). COTELLIC is indicated for treatment of patients with unresectable or metastatic melanoma with a BRAF V600E or V600K mutation,

in combination with vemurafenib. Subsequent to this approval, the USPTO received patent term restoration applications for COTELLIC (U.S. Patent Nos. 7,803,839 and 8,362,002) from Exelixis, Inc., and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated September 26, 2016, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of COTELLIC 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 COTELLIC is 3,219 days. Of this time, 2,884 days occurred during the testing phase of the regulatory review period, while 335 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 (FD&C Act) (21 U.S.C. 355(i)) became effective:* January 19, 2007. FDA has verified the Exelixis, Inc. claim that January 19, 2007, is the date the investigational new drug application became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* December 11, 2014. FDA has verified the applicant's claim that the new drug application (NDA) for COTELLIC (NDA 206192) was initially submitted on December 11, 2014.

3. *The date the application was approved:* November 10, 2015. FDA has verified the applicant's claim that NDA 206192 was approved on November 10, 2015.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 1,013 days or 676 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: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–03218 Filed 2–15–18; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2014–D–1540]

### Migraine: Developing Drugs for Acute Treatment; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled “Migraine: Developing Drugs for Acute Treatment.” The purpose of this guidance is to assist sponsors in the clinical development of prescription drugs for the acute treatment of migraine. This guidance focuses on specific drug development and trial design issues that are unique to the study of prescription drugs for the acute treatment of migraine. This guidance finalizes the draft guidance of the same name issued October 22, 2014.

**DATES:** The announcement of the guidance is published in the **Federal Register** on February 16, 2018.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA–2014–D–1540 for “Migraine: Developing Drugs for Acute Treatment; Guidance for Industry; Availability.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

“THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Eric Bastings, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4334, Silver Spring, MD 20993–0002, 301–796–1039.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

FDA is announcing the availability of a guidance for industry entitled “Migraine: Developing Drugs for Acute Treatment.” The purpose of this guidance is to assist sponsors in the clinical development of prescription

drugs for the acute treatment of migraine. This guidance focuses on specific drug development and trial design issues that are unique to the study of prescription drugs for the acute treatment of migraine, including trial population, trial design, dose selection, efficacy endpoints, and statistical considerations. The guidance also discusses safety considerations, pediatric studies, and labeling considerations.

This guidance finalizes the draft guidance of the same name issued October 22, 2014 (79 FR 63129). It reflects FDA’s consideration of public comments on the draft guidance and makes minor clarifying changes.

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on developing drugs for the acute treatment of migraine. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

##### **II. Paperwork Reduction Act of 1995**

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 201, 312, and 314 have been approved under OMB control numbers 0910–0572, 0910–0014, and 0910–0001, respectively.

##### **III. Electronic Access**

Persons with access to the internet may obtain the guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–03224 Filed 2–15–18; 8:45 am]

**BILLING CODE 4164–01–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

[Docket No. FDA–2018–D–0178]

#### **Drugs for Treatment of Partial Onset Seizures: Full Extrapolation of Efficacy From Adults to Pediatric Patients 4 Years of Age and Older; Draft Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled “Drugs for Treatment of Partial Onset Seizures: Full Extrapolation of Efficacy from Adults to Pediatric Patients 4 Years of Age and Older.” The draft guidance provides recommendations to sponsors on the clinical development of drugs for the treatment of partial onset seizures (POS) in pediatric patients. Specifically, it addresses FDA’s thinking regarding clinical development programs that can support extrapolation of evidence of effectiveness in treatment of POS in adults to pediatric patients 4 years of age and older.

**DATES:** Submit either electronic or written comments on the draft guidance by April 17, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

##### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you

do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA-2018-D-0178 for “Drugs for Treatment of Partial Onset Seizures: Full Extrapolation of Efficacy from Adults to Pediatric Patients 4 Years of Age and Older; Draft Guidance for Industry.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access

the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

#### FOR FURTHER INFORMATION CONTACT:

Billy Dunn, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4332, Silver Spring, MD 20993-0002, 301-796-2250.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Drugs for Treatment of Partial Onset Seizures: Full Extrapolation of Efficacy from Adults to Pediatric Patients 4 Years of Age and Older.” The draft guidance provides recommendations to sponsors on the clinical development of drugs for the treatment of POS in pediatric patients. Specifically, it addresses FDA’s thinking regarding clinical development programs that can support extrapolation of evidence of effectiveness in treatment of POS in adults to pediatric patients 4 years of age and older.

This draft guidance explains how efficacy can be extrapolated from adults to children when it is reasonable to assume that children, compared with adults, have a similar progression of disease, similar response of the disease to treatment, and similar exposure-response relationship.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Drugs for Treatment of Partial Onset

Seizures: Full Extrapolation of Efficacy From Adults to Pediatric Patients 4 Years of Age and Older.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

#### II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03223 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2017-N-6928]

#### Pediatric Advisory Committee; Establishment of a Public Docket; Request for Comments; Amendment of Notice

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Pediatric Advisory Committee (PAC). This meeting was announced in the **Federal Register** of January 2, 2018. The amendment is being made to reflect a change in the Center for Devices and Radiological Health (CDRH) products portion of the document and to include the topics that will be discussed during the meeting. There are no other changes.

#### FOR FURTHER INFORMATION CONTACT:

Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240-402-3838, [marieann.brill@fda.hhs.gov](mailto:marieann.brill@fda.hhs.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area). Please call the Information Line for up-to-date information on this meeting.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of January 2, 2018 (83 FR 125), FDA announced that a meeting

of the Pediatric Advisory Committee would be held on March 23, 2018.

FDA will provide updates on the following topics without vote by the committee:

- Update regarding labeling change for inhaled corticosteroid long-acting  $\beta$ -2 agonists (ICS/LABAs);
- Safety labeling for gadolinium products;
- Overview of the FDA Adverse Event Reporting System (FAERS) and reports on reduced or lack of efficacy for certain generic drugs; and
- Generic drug approval process; and discussion on the differences in the approval process for brand name drugs versus generic drugs; exceptions.

On page 126, in the third column, the CDRH products portion of the document is changed to read as follows:

The PAC will meet to discuss the following products (listed by FDA Center):

- (2) Center for Devices and Radiological Health
  - a. MEDTRONIC ACTIVA DYSTONIA THERAPY (Humanitarian Device Exemption (HDE))
  - b. LIPOSORBER LA-15 SYSTEM (HDE)

CDRH will update the committee on the regulatory status of a previously reviewed HDE.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03231 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2016-E-2477]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; HYMOVIS

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for HYMOVIS 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 medical device.

**DATES:** Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by April 17, 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 15, 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 17, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of April 17, 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-2016-E-2477 for "Determination of Regulatory Review Period for Purposes of Patent Extension; HYMOVIS." 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 medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (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 medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device HYMOVIS. HYMOVIS is indicated for the treatment of pain in osteoarthritis of the knee in patients who have failed to respond adequately to conservative non-pharmacologic therapy and to simple analgesics. Subsequent to this approval, the USPTO received a patent term restoration application for HYMOVIS (U.S. Patent No. 7,863,256) from Fidia Farmaceutici S.p.A., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 26, 2016, FDA advised the USPTO that this medical

device had undergone a regulatory review period and that the approval of HYMOVIS 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 HYMOVIS is 1,845 days. Of this time, 1,665 days occurred during the testing phase of the regulatory review period, while 180 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(g)) involving this device became effective:* August 11, 2010. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the FD&C Act for human tests to begin became effective on January 7, 2011. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on August 11, 2010, which represents the IDE effective date.

2. *The date an application was initially submitted with respect to the device under section 515 of the FD&C Act (21 U.S.C. 360e):* March 2, 2015. FDA has verified the applicant's claim that the premarket approval application (PMA) for HYMOVIS (PMA P150010) was initially submitted March 2, 2015.

3. *The date the application was approved:* August 28, 2015. FDA has verified the applicant's claim that PMA P150010 was approved on August 28, 2015.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 938 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: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03229 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2013-D-0077]

**Early Alzheimer's Disease: Developing Drugs for Treatment; Draft Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled "Early Alzheimer's Disease: Developing Drugs for Treatment." This guidance is intended to assist sponsors in the clinical development of drugs for the treatment of the stages of sporadic Alzheimer's disease (AD) that occur before the onset of overt dementia. This guidance revises the draft guidance for industry entitled "Alzheimer's Disease: Developing Drugs for the Treatment of Early Stage Disease" issued February 8, 2013.

**DATES:** Submit either electronic or written comments on the draft guidance by May 17, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

### Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket No. FDA-2013-D-0077 for "Early Alzheimer's Disease: Developing Drugs for Treatment; Draft Guidance for Industry; Availability." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential

with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002, or Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

### FOR FURTHER INFORMATION CONTACT:

Billy Dunn, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4339, Silver Spring, MD 20993-0002, 301-796-2250; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and

Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

### SUPPLEMENTARY INFORMATION:

#### I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Early Alzheimer's Disease: Developing Drugs for Treatment." This draft guidance is intended to assist sponsors in the clinical development of drugs for the treatment of the stages of sporadic AD that occur before the onset of overt dementia. This draft guidance revises the draft guidance for industry entitled "Alzheimer's Disease: Developing Drugs for the Treatment of Early Stage Disease" issued February 8, 2013 (78 FR 9396), and reflects FDA's consideration of public comments on the draft guidance. This revision addresses FDA's current thinking regarding the selection of patients with early AD for enrollment into clinical trials and the selection of endpoints for clinical trials in these populations.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on developing drugs for the treatment of early Alzheimer's disease. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This draft guidance is not subject to Executive Order 12866.

#### II. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, <https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm>, or <https://www.regulations.gov>.

Dated: February 12, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-03226 Filed 2-15-18; 8:45 am]

**BILLING CODE 4164-01-P**



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Healthy Start Initiative: Eliminating Disparities in Perinatal Health Program Listening Session

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice of meeting.

**DATES:** Listening Session: March 1, 2018, 1:00 p.m.–2:00 p.m. (EST). In addition, written comments will be accepted until March 16, 2018.

**ADDRESSES:** The meeting will be held virtually via webinar and phone. The meeting is open to the public. Please register to attend this meeting via the following link: [https://hrsa.connect.solutions.com/healthy\\_start\\_registration/event/registration.html](https://hrsa.connect.solutions.com/healthy_start_registration/event/registration.html). Registrations will be accepted through 5:00 p.m. EST on February 26, 2018. Call information for this meeting will be provided upon registration.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to solicit ideas for program development in the next grant cycle of HRSA's Healthy Start Initiative: Eliminating Disparities in Perinatal Health (Healthy Start) program, authorized by Section 330H of the Public Health Service Act (42 U.S.C. 254c–8), as amended by the Healthy Start Reauthorization Act of 2007 (Pub. L. 110–339).

HRSA's Healthy Start program currently supports 100 community-based projects across the nation where the infant mortality rate (IMR) was more than 1½ times the national average when they applied for funding. The program is designed to reduce IMR and improve perinatal health outcomes. Information about HRSA's Healthy Start program can be obtained by accessing the following website: <https://mchb.hrsa.gov/maternal-child-health-initiatives/healthy-start>. The Healthy Start grants were last competed in fiscal year (FY) 2014 with a project period of up to 5 years. The next grant cycle is expected to begin in FY 2019 (subject to the availability of funding). The last Healthy Start funding opportunity announcement can be found here: <https://apply07.grants.gov/apply/opportunities/instructions/oppHRSA-14-020-cfda93.926-cidHRSA-14-020-instructions.pdf>.

The Listening Session will serve as a platform to engage and obtain feedback from the public on HRSA's strategic thinking and approaches for

community-based infant mortality reduction programs. A final meeting agenda will be shared with registrants prior to the meeting.

The desired outcomes of the meeting are to:

(1) Share with the public an overview of HRSA's current Healthy Start program;

(2) Identify strategies and approaches that are important to implement at the community level, and scientifically known to reduce infant mortality, improve perinatal outcomes, and disparities therein, through input from experts, representatives of professional organizations, and the public at large; and

(3) Inform HRSA's strategies and approaches implemented through the HRSA's Healthy Start program.

Time will be provided for public comments. Each public comment is limited to 2 minutes. During the meeting, participants will have an opportunity to interact with presenters via phone and the chat function in the public comment section of the webinar system. Telephone lines and time to provide oral comments during the meeting are available on a first-come, first-served basis. Registered attendees for this meeting are encouraged to submit written comments prior to the meeting, no later than 5:00 p.m. ET on February 26, 2018.

If unable to attend the listening session, written comments will continue to be accepted via email to [MCHBHealthyStart@hrsa.gov](mailto:MCHBHealthyStart@hrsa.gov) through March 16, 2018. All written comments should identify the individual's name, address, email, telephone number, professional or organizational affiliation, background or area of expertise (i.e., program participant, clinician, public health worker, researcher, etc.), and topic/subject matter. Please note that all comments received under this notice will be made available to the general public upon written request, and are considered to be public, whether they are posted online or provided via written request.

#### FOR FURTHER INFORMATION CONTACT:

Individuals who are submitting public comments or who have questions regarding the meeting should contact Benita Baker or CAPT Maria Benke, HRSA, Maternal and Child Health Bureau, telephone: (301) 443–8283, or email: [MCHBHealthyStart@hrsa.gov](mailto:MCHBHealthyStart@hrsa.gov).

**Amy McNulty,**

*Acting Director, Division of the Executive Secretariat.*

[FR Doc. 2018–03232 Filed 2–15–18; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; 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 Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Investigator Initiated Program Project Applications (P01).

**Date:** March 1, 2018.

**Time:** 10:00 a.m. to 4:00 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

**Contact Person:** Julio Aliberti, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 301–761–7322, [alibertijc@niaid.nih.gov](mailto:alibertijc@niaid.nih.gov).

**Name of Committee:** National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Clinical Trial Planning Grant (R34) and Implementation Cooperative Agreement (U01).

**Date:** March 9, 2018.

**Time:** 11:30 a.m. to 2:30 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

**Contact Person:** Louis A. Rosenthal, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Rm 3G42B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892–9834, (240) 669–5070, [rosenthalla@niaid.nih.gov](mailto:rosenthalla@niaid.nih.gov).

**Name of Committee:** National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Division of Allergy, Immunology & Transplantation: Immune-Mediated Diseases Clinical Products Center.

**Date:** March 12, 2018.

**Time:** 11:00 a.m. to 3:00 p.m.

**Agenda:** To review and evaluate contract proposals.

**Place:** National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).



Contact Person: Jay R. Radke, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G11B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC-9823, Bethesda, MD 20892-9823, (240) 669-5046, [jay.radke@nih.gov](mailto:jay.radke@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 12, 2018.

**Natasha M. Copeland,**

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-03186 Filed 2-15-18; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Coast Guard

[Docket No. USCG-2018-0050]

#### Towing Safety Advisory Committee

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The Towing Safety Advisory Committee and its subcommittees will meet in Charleston, South Carolina to review and discuss recommendations from its subcommittees and to receive briefs on items listed in the agenda. All meetings will be open to the public.

**DATES:** *Meetings.* The subcommittees of the Towing Safety Advisory Committee will meet on Tuesday, March 20, 2018 from 8 a.m. to 5 p.m. to conduct work-group sessions. The full Committee will meet on Wednesday, March 21, 2018, from 8 a.m. to 5 p.m. These meetings may end early if the subcommittees or the Committee has completed its business, or the meetings may be extended based on the number of public comments.

*Comments and supporting documentation.* To ensure your comments are reviewed by Committee members comment before the meetings, submit your written comments no later than March 6, 2018.

**ADDRESSES:** All meetings will be held at the Charleston Marriott 170 Lockwood Boulevard, Charleston, South Carolina 29403; <http://www.marriott.com/hotels/travel/chsmc-charleston-marriott/>.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the individuals listed in the **FOR FURTHER**

**INFORMATION CONTACT** section as soon as possible.

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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section below.

*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 meetings, please submit your comments no later than March 6, 2018. We are particularly interested in comments on the issues in the "Agenda" section below. You must include "Department of Homeland Security" and the docket number USCG-2018-0050. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. For more about privacy and the docket, review the Privacy and Security Notice for the Federal Docket Management System at <https://www.regulations.gov/privacyNotice>.

*Docket Search:* For access to the docket or to read documents or comments related to this notice, go to <http://www.regulations.gov>, insert USCG-2018-0050 in the Search box, press Enter, and then click on the item you wish to view.

**FOR FURTHER INFORMATION CONTACT:** Commander Jose Perez, Designated Federal Officer of the Towing Safety Advisory Committee, Commandant (CG-OES-2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, Stop 7509, Washington, DC 20593-7509; telephone 202-372-1410, fax 202-372-8382 or email [jose.a.perez3@uscg.mil](mailto:jose.a.perez3@uscg.mil), or Mr. Kenneth Doyle, telephone 202-372-1363 or email [kenneth.j.doyle@uscg.mil](mailto:kenneth.j.doyle@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is in compliance with the *Federal Advisory Committee Act*, Title 5 United States Code Appendix. The Towing Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

#### Agenda of Meetings

On March 20 and 21, 2018, from 8 a.m. to 5 p.m., the Towing Safety Advisory Committee and its subcommittees will meet to review, discuss, deliberate, and formulate recommendations, as appropriate, on the following tasks:

- Subchapter M Implementation (Task 16-01)

- Inland Firefighting (Task 16-02)
- Towing Liquefied Natural Gas Barges (Task 16-03)
- Regulatory Reform (Task 17-01)
- Load Line Exemption Review for River Barges on Lakes Erie and Ontario (Task 17-02)

All current Towing Safety Advisory Committee tasks can be found at <https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=574&Source=https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/tsac/recommendations-reports>.

A copy of all meeting documentation, including any draft final reports, will be available at <https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/tsac/announcements> no later than March 13, 2018. Alternatively, you may contact Mr. Kenneth Doyle as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meeting as the Committee discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

#### Notices of Future 2018 Towing Safety Advisory Committee Meetings

To receive automatic email notices of future Towing Safety Advisory Committee meetings in 2018, go to the online docket, USCG-2018-0050 (<http://www.regulations.gov/#!docketDetail;D=USCG-2018-0050>), and select the Sign-up-for-Email-Alerts option. We plan to use the same docket number for all Towing Safety Advisory Committee meeting notices in 2018, so when the next meeting notice is published you will receive an email alert from <http://www.regulations.gov> when the notice appears in this docket, in addition to notices of other items being added to the docket.

Dated: February 13, 2018.

**Jeffrey G. Lantz,**

Director of Commercial Regulations and Standards.

[FR Doc. 2018-03221 Filed 2-15-18; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### U.S. Immigration and Customs Enforcement

#### Announcement of Program for the Private Sector To Participate in Trade-Related Training of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement Personnel

**AGENCY:** U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces CBP's and ICE's process to solicit, evaluate, and select interested parties in the private sector to fulfill agency needs for instruction and related instructional materials for trade-related training, pursuant to section 104 of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA).

**DATES:** Private sector parties interested in providing training to CBP or ICE personnel may submit a training proposal satisfying the criteria set forth below on or after February 16, 2018.

**ADDRESSES:** Private sector parties interested in submitting a request to provide trade-related training should submit proposals as indicated below:

CBP proposals should be submitted to [tradeseminars@cbp.dhs.gov](mailto:tradeseminars@cbp.dhs.gov).

ICE proposals should be submitted to [IPRCenter@dhs.gov](mailto:IPRCenter@dhs.gov) and [TTUOperations@ice.dhs.gov](mailto:TTUOperations@ice.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Questions should be addressed to agency-designated personnel below:

CBP: Christal Oliphant (202-863-6517) for anti-dumping and countervailing duties (AD/CVD) seminars; Robert Copyak (202-863-6014) for intellectual property rights (IPR) and other seminars.

ICE: Special Agent Nadine Andrews (703-603-3955).

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 24, 2016, former President Barack Obama signed into law the Trade Facilitation and Trade Enforcement Act (TFTEA), (Pub. L. 114-125, 130 Stat. 122, Feb. 24, 2016) (19 U.S.C. 4301 note). Section 104 of the TFTEA directs the Commissioner of U.S. Customs and Border Protection (CBP) and the Director of U.S. Immigration and Customs Enforcement (ICE) to establish and carry out, on a

fiscal year basis, trade-related educational seminars to: (1) Improve the ability of personnel of CBP to classify and appraise imported merchandise; (2) improve the trade enforcement efforts of CBP and ICE personnel; and (3) otherwise improve the ability and effectiveness of CBP and ICE personnel to facilitate legitimate international trade. Interested parties in the private sector that meet the guidelines and criteria set forth in this notice and are selected by CBP or ICE may provide instruction and related instructional materials at these seminars pursuant to section 104.

Topics upon which training may be conducted include tariff classification, customs valuation, country of origin (including procedures for identifying merchandise bearing mislabeled country of origin markings), proper assessment of AD/CVD, evasion of duties on imports of textiles, border enforcement of IPR, enforcement of child labor laws, and other topics as appropriate and useful as concerns the trade-related duties and missions of CBP and ICE.

#### Trade-Related Training by Private Sector Parties

Interested parties desiring to conduct training under this program will be selected based on: (1) The availability of CBP and ICE personnel for such training; (2) the relevance of the training to the topics specified in section 104; (3) the usefulness of the proposed training as concerns the trade-related duties and missions of CBP and ICE; (4) any existing or future need to train CBP and ICE personnel on identifying and detecting incorrect or false country of origin with respect to imported merchandise; and (5) the expertise and experience of the proposed private sector instructors in the subject matter of the proposed training.

Proposals for private sector training should be directed to either CBP or ICE, as appropriate, at the above addresses, and contain the following information and materials:

- (1) Name, address, telephone number, and email address of the entity proposing the training;
- (2) Type of business in which the entity is engaged;
- (3) Topic for the proposed training;
- (4) Outline of proposed curriculum and instructional materials;
- (5) Name, address, telephone number, email address, and qualifications of the proposed private sector instructor(s) (including previous experience in conducting training on the proposed topic);
- (6) Name of the ports or locations at which the training is proposed to be

given (which may be conducted at a location provided by the entity proposing the training), as applicable, and the intended audience in CBP and/or ICE;

(7) Proposed dates for the training;

(8) Length of the training; and

(9) Any previous history of trade-related training provided to CBP and/or ICE.

An interested private sector party who submits a proposal to train CBP and/or ICE personnel will be notified whether the proposed training meets the guidelines in this notice and have been selected to conduct the training.

As provided for in section 104(d), the Commissioner of CBP will give due consideration to carrying out educational seminars under this program to improve the ability of CBP personnel to enforce specific AD/CVD orders if such training is proposed by a petitioner involved in the action underlying that order.

TFTEA does not provide for or authorize any compensation or reimbursement of costs and expenses for private sector parties who participate in training for CBP or ICE personnel under this program. Therefore, no compensation or payment will be made to any private sector parties selected to provide such training. Private sector parties selected to participate will be required to execute a gratuitous services agreement.

The procedures set forth herein create no private rights, benefits, or privileges for any person or party.

Please note that nothing in TFTEA or this notice precludes or limits CBP or ICE from soliciting private sector parties to participate in specific training programs considered useful to the missions of the agencies or from continuing any such current training programs with private sector parties.

Dated: February 13, 2018.

**Kevin K. McAleenan,**

*Acting Commissioner, U.S. Customs and Border Protection.*

**Thomas D. Homan,**

*Deputy Director and Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement.*

[FR Doc. 2018-03233 Filed 2-15-18; 8:45 am]

**BILLING CODE 9111-14-P**

**DEPARTMENT OF THE INTERIOR****Geological Survey**

[GX18LR000F60100; OMB Control Number 1028–0053]

**Agency Information Collection Activities; Nonferrous Metals Surveys**

**AGENCY:** U.S. Geological Survey, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the U.S. Geological Survey (USGS) is proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before April 17, 2018.

**ADDRESSES:** Send your comments on the information collection request (ICR) by mail to the USGS, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to [gs-info\\_collections@usgs.gov](mailto:gs-info_collections@usgs.gov). Please reference OMB Control Number 1028–0053 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Elizabeth Sangine by email at [escottsangine@usgs.gov](mailto:escottsangine@usgs.gov), or by telephone at 703–648–7720.

**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 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 for USGS to perform its duties, including whether the information is useful; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (4) how to 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** Respondents to these forms supply the USGS with domestic production and consumption data for 22 ores, concentrates, and metals, some of which are considered strategic and critical to assist in determining stockpile goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

**Title of Collection:** Nonferrous Metals Surveys.

**OMB Control Number:** 1028–0053.

**Form Number:** Various (27 forms).

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers and consumers of nonferrous metals and related materials.

**Total Estimated Number of Annual Respondents:** 1,400.

**Total Estimated Number of Annual Responses:** 3,647.

**Estimated Completion Time per Response:** For each form, we will include an average burden time ranging from 20 minutes to 1 hour.

**Total Estimated Number of Annual Burden Hours:** 2,936.

**Respondent's Obligation:** Voluntary.

**Frequency of Collection:** Monthly, Quarterly, or Annually.

**Total Estimated Annual Non-hour Burden Cost:** There are no “non-hour cost” burdens associated with this IC.

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 and current expiration date.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 *et seq.*), and the National Mining

and Minerals Policy Act of 1970 (30 U.S.C. 21(a)).

**Michael J. Magyar,**  
*Associate Director, National Minerals Information Center.*

[FR Doc. 2018–03255 Filed 2–15–18; 8:45 am]

**BILLING CODE 4338–11–P**

**DEPARTMENT OF THE INTERIOR****Office of the Secretary**

[178D0102DM, DS6CS00000, DLSN00000.000000, DX.6CS25]

**Draft List of Critical Minerals**

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Notice.

**SUMMARY:** The United States is heavily reliant on imports of certain mineral commodities that are vital to the Nation's security and economic prosperity. This dependency of the United States on foreign sources creates a strategic vulnerability for both its economy and military to adverse foreign government action, natural disaster, and other events that can disrupt supply of these key minerals. Pursuant to Executive Order 13817 issued on December 20, 2017, “A Federal Strategy To Ensure Secure and Reliable Supplies of Critical Minerals,” the Secretary of the Interior presents a draft list of 35 mineral commodities deemed critical under the definition provided in the Executive Order. Specifically, an analysis using multiple criteria identified 35 minerals or mineral material groups that are currently considered critical. These include: Aluminum (bauxite), antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluor spar, gallium, germanium, graphite (natural), hafnium, helium, indium, lithium, magnesium, manganese, niobium, platinum group metals, potash, rare earth elements group, rhenium, rubidium, scandium, strontium, tantalum, tellurium, tin, titanium, tungsten, uranium, vanadium, and zirconium. These commodities merit consideration in furthering the policy of the Federal Government to reduce the Nation's vulnerability for the security and prosperity of the United States. A summary report describing the methodologies and data sources used to develop the draft critical minerals list may be accessed at <https://doi.org/10.3133/ofr20181021>. The Department of the Interior (DOI) seeks comments addressing the following topics: The make-up of the draft list and the rationale associated with potential additions or subtractions to the draft list.

**DATES:** To ensure consideration, written comments must be submitted before March 19, 2018.

**ADDRESSES:** You may submit written comments online at <http://www.regulations.gov> by entering “DOI-2018-0001” in the Search bar and clicking “Search,” or by mail to Draft Critical Minerals List, MS-1621, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:**

Ryan Nichols, (202) 208-7250, [ryan\\_nichols@ios.doi.gov](mailto:ryan_nichols@ios.doi.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Nichols during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with this individual. You will receive a reply during normal business hours. Normal business hours are 9:00 a.m. to 5:30 p.m., Monday through Friday, except for Federal holidays.

**SUPPLEMENTARY INFORMATION:** Executive Order 13817 of December 20, 2017 (82 FR 60835, December 26, 2017), section 2(b), directs the Secretary of the Interior, in coordination with the Secretary of Defense and in consultation with the heads of other relevant executive departments and agencies (agencies), to publish a list of critical minerals in the **Federal Register**.

A “critical mineral” as defined by the Executive Order is a mineral identified to be (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States, (ii) the supply chain of which is vulnerable to disruption, and (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for the U.S. economy or national security.

The critical mineral screening methodology developed by the National Science and Technology Council Subcommittee on Critical and Strategic Mineral Supply Chains (CSMSC) in 2016 and updated in 2018, served as the starting point for the development of the draft list. The screening tool was designed to identify and prioritize minerals or mineral materials for in-depth study to evaluate risks to security of supply. Additional tools and sources of information used to produce the draft critical minerals list were as follows: (i) U.S. net import reliance statistics as published annually in the U.S. Geological Survey (USGS) Mineral Commodity Summaries; (ii) USGS Professional Paper 1802 “Critical Mineral Resources of the United States”; (iii) inputs from the Department of Defense; (iv) the National Defense Authorization Act for fiscal year 2018; (v) Department of Energy/Energy Information Administration uranium

statistics in the 2016 Uranium Marketing Annual Report; and (vi) the judgment of subject matter experts of the USGS and other U.S. Government agencies, including representatives of other DOI Bureaus and members of the CSMSC Subcommittee.

The draft list of critical mineral commodities has been simplified through categorization. The rare earth elements include the lanthanides and yttrium. The platinum group elements include platinum, palladium, rhodium, ruthenium, and iridium.

Several of the materials on the draft list can only be recovered cost effectively as byproducts of other more common mineral commodities which may not meet the criteria for being included on the draft list. Tellurium, for example, is a byproduct of copper refining. Rhenium is a byproduct of molybdenum processing. Despite these codependences, neither copper nor molybdenum is among the materials designated as critical.

Mineral criticality is not static, but changes over time. This analysis represents a snapshot in time that should be reviewed and updated periodically using the most recently available data in order to accurately capture rapidly evolving technological developments and the consequent material demands.

**BILLING CODE 4334-63-P**

**Table 1: Draft List of critical minerals**

Mineral commodity	Sectors					Top Producer	Top Supplier	Notable example application
	Aerospace (non-defense)	Defense	Energy	Telecommunications & electronics	Transportation (non-aerospace)			
Aluminum						China	Canada	Aircraft, power transmission lines, lightweight alloys
Antimony						China	China	Lead-acid batteries
Arsenic						China	China	Microwave communications (gallium arsenide)
Barite						China	China	Oil and gas drilling fluid
Beryllium						United States	Kazakhstan	Satellite communications, beryllium metal for aerospace
Bismuth						China	China	Pharmaceuticals, lead-free solders
Cesium and rubidium						Canada	Canada	Medical applications, global positioning satellites, night-vision devices
Chromium						South Africa	South Africa	Jet engines (superalloys), stainless steels
Cobalt						Congo (Kinshasa)	Norway	Jet engines (superalloys), rechargeable batteries
Fluorspar						China	Mexico	Aluminum and steel production, uranium processing
Gallium						China	China	Radar, light-emitting diodes (LEDs), cellular phones
Germanium						China	China	Infrared devices, fiber optics
Graphite (natural)						China	China	Rechargeable batteries, body armor
Helium						United States	Qatar	Cryogenic [magnetic resonance imaging (MRI)]
Indium						China	Canada	Flat-panel displays (indium-tin-oxide), specialty alloys
Lithium						Australia	Chile	Rechargeable batteries, aluminum-lithium alloys for aerospace
Magnesium						China	China	Incendiary countermeasures for aerospace
Manganese						China	South Africa	Aluminum and steel production, lightweight alloys

Niobium							Brazil	Brazil	High-strength steel for defense and infrastructure
Platinum group metals							South Africa	South Africa	Catalysts, superalloys for jet engines
Potash							Canada	Canada	Agricultural fertilizer
Rare earth elements							China	China	Aerospace guidance, lasers, fiber optics
Rhenium							Chile	Chile	Jet engines (superalloys), catalysts
Scandium							China	China	Lightweight alloys, fuel cells
Strontium							Spain	Mexico	Aluminum alloys, permanent magnets, flares
Tantalum							Rwanda	China	Capacitors in cellular phones, jet engines (superalloys)
Tellurium							China	Canada	Infrared devices (night-vision), solar cells
Tin							China	Peru	Solder, flat-panel displays (indium-tin-oxide)
Titanium							China	South Africa	Jet engines (superalloys) and airframes (titanium alloys), armor
Tungsten							China	China	Cutting and drilling tools, catalysts, jet engines (superalloys)
Uranium							Kazakhstan	Canada	Nuclear applications, medical applications
Vanadium							China	South Africa	Jet engines (superalloys) and airframes (titanium alloys), high-strength steel
Zirconium and hafnium							Australia	China	Thermal barrier coating in jet engines, nuclear applications

**BILLING CODE 4334-63-C**

This draft list is based on the definition of a “critical mineral” provided in Executive Order 13817. The U.S. Government and other organizations may also use other definitions and rely on other criteria to identify a material or mineral as “critical” or otherwise important. This draft list is not intended to replace related terms and definitions of materials that are deemed strategic, critical or otherwise important (*e.g.*, National Defense Stockpile). In addition, there are many minerals not listed on the draft critical minerals list, but which are still of significant importance to the U.S. economy. Industrial minerals, for example, are the materials that form the physical basis of our nation’s infrastructure. The materials for making cement, for example, limestone, clays, shales, and aggregates; materials to reinforce concrete structures such as iron and steel for rebar and steel mesh/wire grids, materials on which to place infrastructure such as base courses composed of crushed stone and aggregates. These construction

commodities are the largest (by volume) sectors of the U.S. minerals industries. Other minerals include inputs into the chemical industries or agricultural sector including sulfur, salt, phosphate, and gypsum. The manufacture of products such as glass, ceramics, refractories, and abrasives require quartz, soda ash, feldspar, kaolin, ball clays, mullite and kyanite, industrial diamonds, garnets, corundum, and borates. These materials are not considered critical in the conventional sense because the U.S. largely meets its needs for these through domestic mining and processing and thus a supply disruption is considered unlikely.

Please submit written comments on this draft list by March 19, 2018 to facilitate consideration. In particular, DOI is interested in comments addressing the following topics: The make-up of the draft list and the rationale associated with potential additions or subtractions to the draft list. 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.

**Authority:** E.O. 13817, 82 FR 60835 (December 26, 2017).

**Timothy R. Petty,**  
*Assistant Secretary for Water and Science.*  
[FR Doc. 2018-03219 Filed 2-15-18; 8:45 am]

**BILLING CODE 4334-63-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Ocean Energy Management**

**Docket No. BOEM-2017-0078]**

**Gulf of Mexico, Outer Continental Shelf (OCS), Oil and Gas Lease Sale 250; MMAA104000**

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Notice of Availability of a Record of Decision.

**SUMMARY:** The Bureau of Ocean Energy Management (BOEM) is announcing the availability of a Record of Decision for proposed Gulf of Mexico (GOM) region-wide oil and gas Lease Sale 250. This Record of Decision identifies BOEM's selected alternative for proposed Lease Sale 250, which is analyzed in the *Gulf of Mexico Outer Continental Shelf Lease Sale: Final Supplemental Environmental Impact Statement 2018* (2018 GOM Supplemental EIS).

**ADDRESSES:** The Record of Decision is available on BOEM's website at <http://www.boem.gov/nepaprocess/>.

**FOR FURTHER INFORMATION CONTACT:** For more information on the Record of Decision, you may contact Mr. Greg Kozlowski, Deputy Regional Supervisor, Office of Environment, by telephone at 504-736-2512 or by email at [greg.kozlowski@boem.gov](mailto:greg.kozlowski@boem.gov).

**SUPPLEMENTARY INFORMATION:** In the 2018 GOM Supplemental EIS, BOEM evaluated five alternatives in regards to proposed Lease Sale 250. These alternatives are summarized below:

*Alternative A—Region-wide OCS Lease Sale:* This is BOEM's preferred alternative. This alternative would allow for a proposed GOM region-wide lease sale encompassing all three planning areas: The Western Planning Area (WPA); the Central Planning Area (CPA); and a small portion of the Eastern Planning Area (EPA) not under Congressional moratorium. Under this alternative, BOEM would offer for lease all available unleased blocks within the proposed region-wide lease sale area for oil and gas operations with the following exceptions: Whole and portions of blocks deferred by the Gulf of Mexico Energy Security Act of 2006; blocks that are adjacent to or beyond the United States' Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap; whole and partial blocks within the current boundary of the Flower Garden Banks National Marine Sanctuary; and blocks whose lease status is currently under appeal. The unavailable blocks are listed in Section I of the Final Notice of Sale for proposed Lease Sale 250. The proposed region-wide lease sale area encompasses about 91.93 million acres (ac). As of February 2018, approximately 77.3 million ac of the proposed region-wide lease sale area are currently available for lease. As described in the 2018 Final GOM Supplemental EIS, the estimated amounts of resources projected to be leased, discovered, developed, and produced as a result of the proposed region-wide lease sale are between 0.211 and 1.118 billion barrels of oil

(BBO) and 0.547 and 4.424 trillion cubic feet (Tcf) of natural gas.

*Alternative B—Region-wide OCS Lease Sale Excluding Available Unleased Blocks in the WPA Portion of the Proposed Lease Sale Area:* This alternative would offer for lease all available unleased blocks within the CPA and EPA portions of the proposed lease sale area for oil and gas operations, with the following exceptions: Whole and portions of blocks deferred by the Gulf of Mexico Energy Security Act of 2006; and blocks that are adjacent to or beyond the United States' Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap. The proposed CPA/EPA lease sale area encompasses about 63.35 million ac. As of February 2018, approximately 51.2 million ac of the proposed CPA/EPA lease sale area are currently available for lease. The estimated amounts of resources projected to be leased, discovered, developed, and produced as a result of the proposed lease sale under Alternative B are 0.185–0.970 BBO and 0.441–3.672 Tcf of gas.

*Alternative C—Region-wide OCS Lease Sale Excluding Available Unleased Blocks in the CPA and EPA Portions of the Proposed Lease Sale Area:* This alternative would offer for lease all available unleased blocks within the WPA portion of the proposed lease sale area for oil and gas operations, with the following exception: Whole and partial blocks within the current boundary of the Flower Garden Banks National Marine Sanctuary. The proposed WPA lease sale area encompasses about 28.58 million ac. As of February 2018, approximately 26.2 million ac of the proposed WPA lease sale area are currently available for lease. The estimated amounts of resources projected to be leased, discovered, developed, and produced as a result of the proposed lease sale under Alternative C are 0.026–0.148 BBO and 0.106–0.752 Tcf of gas.

*Alternative D—Alternative A, B, or C, with the Option to Exclude Available Unleased Blocks Subject to the Topographic Features, Live Bottom (Pinnacle Trend), and/or Blocks South of Baldwin County, Alabama, Stipulations:* This alternative could be combined with any of the Action alternatives above (i.e., Alternatives A, B, or C) and would allow the flexibility to offer leases under any alternative with additional exclusions. Under Alternative D, the decision-maker could exclude from leasing any available unleased blocks subject to any one and/or a combination of the following stipulations: Topographic Features Stipulation; Live Bottom Stipulation;

and Blocks South of Baldwin County, Alabama, Stipulation (not applicable to Alternative C). This alternative considered blocks subject to these stipulations because these areas have been emphasized in scoping, can be geographically defined, and adequate information exists regarding their ecological importance and sensitivity to OCS oil- and gas-related activities.

A total of 207 blocks within the CPA and 160 blocks in the WPA are affected by the Topographic Features Stipulation. There are currently no identified topographic features protected under this stipulation in the EPA. The Live Bottom Stipulation covers the pinnacle trend area of the CPA, affecting a total of 74 blocks. Under Alternative D, the number of blocks that would become unavailable for lease represents only a small percentage of the total number of blocks to be offered under Alternative A, B, or C (<4%, even if blocks subject to all three stipulations were excluded). Therefore, Alternative D could reduce offshore infrastructure and activities, but Alternative D also shifts the location of offshore infrastructure and activities farther from these sensitive zones and would not lead to a reduction in overall offshore infrastructure and activities.

*Alternative E—No Action:* This alternative is not holding proposed region-wide Lease Sale 250 and is identified as the environmentally preferred alternative.

*Lease Stipulations—*The 2018 GOM Supplemental EIS describes all lease stipulations, which are included in the Final Notice of Sale Package. In the Record of Decision for the 2017–2022 Five-Year Program, the Secretary of the Interior required the protection of biologically sensitive underwater features in all Gulf of Mexico oil and gas lease sales as programmatic mitigation; therefore, the application of the Topographic Features Stipulation and Live Bottom Stipulation are being adopted and applied for applicable designated lease blocks in Lease Sale 250.

The additional eight lease stipulations for proposed region-wide Lease Sale 250 are the Military Areas Stipulation; the Evacuation Stipulation; the Coordination Stipulation; the Blocks South of Baldwin County, Alabama, Stipulation; the Protected Species Stipulation; the United Nations Convention on the Law of the Sea Royalty Payment Stipulation; the Below Seabed Restrictions due to Rights-of-Use and Easement for Floating Production Facilities Stipulation; and the Stipulation on the Agreement between the United States of America and the



United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico. These eight stipulations will be added as lease terms where applicable and will be enforceable as part of the lease. Appendix B of the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2017–2022; Gulf of Mexico Lease Sales 249, 250, 251, 252, 253, 254, 256, 257, 259, and 261; Final Multisale Environmental Impact Statement (2017–2022 GOM Multisale EIS)* provides a list and description of standard post-lease conditions of approval that may be required by BOEM or the Bureau of Safety and Environmental Enforcement as a result of plan and permit review processes for the Gulf of Mexico OCS Region.

After careful consideration, BOEM has selected the preferred alternative (Alternative A) in the 2018 GOM Supplemental EIS for proposed Lease Sale 250. BOEM's selection of the preferred alternative meets the purpose and need for the proposed action, as identified in the 2018 GOM Supplemental EIS, and provides for orderly resource development with protection of the human, marine, and coastal environments while also ensuring that the public receives an equitable return for these resources and that free-market competition is maintained.

**Authority:** This Notice of Availability of a Record of Decision is published pursuant to the regulations (40 CFR part 1505) implementing the provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Dated: February 13, 2018.

**Walter D. Cruickshank,**

*Acting Director, Bureau of Ocean Energy Management.*

[FR Doc. 2018–03280 Filed 2–15–18; 8:45 am]

**BILLING CODE 4310–MR–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

#### Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 250; MMAA104000

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Final Notice of Sale.

**SUMMARY:** On Wednesday, March 21, 2018, the Bureau of Ocean Energy Management (BOEM) will open and publicly announce bids received for blocks offered in the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) Region-wide Oil and Gas Lease Sale 250

(GOM Region-wide Sale 250), in accordance with the provisions of the Outer Continental Shelf Lands Act (OCSLA), as amended, and the implementing regulations issued pursuant thereto. The GOM Region-wide Sale 250 Final Notice of Sale (NOS) package contains information essential to potential bidders.

**DATES:** Public bid reading for GOM Region-wide Sale 250 will begin at 9:00 a.m. on Wednesday, March 21, 2018, at 1201 Elmwood Park Boulevard, New Orleans, Louisiana. All times referred to in this document are Central Standard Time, unless otherwise specified.

**Bid Submission Deadline:** BOEM must receive all sealed bids between 8:00 a.m. and 4:00 p.m. on weekdays, excluding holidays, prior to the sale, with the exception of Tuesday, March 20, 2018, the day before the lease sale, when the Bid Submission Deadline is 10:00 a.m. For more information on bid submission, see Section VII, “Bidding Instructions,” of this document.

**ADDRESSES:** Public bid reading for GOM Region-wide Sale 250 will be held at 1201 Elmwood Park Boulevard, New Orleans, Louisiana. The venue will not be open to the general public, media, or industry. Instead, the bid opening will be available for public viewing on BOEM's website at [www.boem.gov](http://www.boem.gov) via live-streaming video beginning at 9:00 a.m. on the date of the sale. BOEM will also post the results on its website after bid opening and reading are completed. Interested parties may download the Final NOS package from BOEM's website at <http://www.boem.gov/Sale-250/>. Copies of the sale maps may be obtained by contacting the BOEM GOM Region at: Gulf of Mexico Region Public Information Office, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF.

For more information on bid submission, see Section VII, “Bidding Instructions,” of this document.

**FOR FURTHER INFORMATION CONTACT:** Ann Glazner, Acting Regional Supervisor, Office of Leasing and Plans, 504–736–2607, [ann.glazner@boem.gov](mailto:ann.glazner@boem.gov) or Dr. Andrew Krueger, Acting Chief, Leasing Division, 703–787–1554, [andrew.krueger@boem.gov](mailto:andrew.krueger@boem.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

This Final NOS includes the following sections:

- I. Lease Sale Area
- II. Statutes and Regulations
- III. Lease Terms and Economic Conditions
- IV. Lease Stipulations

- V. Information to Lessees
- VI. Maps
- VII. Bidding Instructions
- VIII. Bidding Rules and Restrictions
- IX. Forms
- X. The Lease Sale
- XI. Delay of Sale

#### I. Lease Sale Area

*Blocks Offered for Leasing:* BOEM will offer for bid in this lease sale all of the available unleased acreage in the GOM, except those blocks listed in “Blocks Not Offered for Leasing” below.

*Blocks Not Offered for Leasing:* The following whole and partial blocks are not offered for lease in this sale. The BOEM Official Protraction Diagrams (OPDs) and Supplemental Official Block Diagrams are available online at <https://www.boem.gov/Maps-and-GIS-Data/>.

Whole and partial blocks that lie within the boundaries of the Flower Garden Banks National Marine Sanctuary (in the East and West Flower Garden Banks and the Stetson Bank), identified in the following list:

*High Island, East Addition, South Extension (Leasing Map TX7C)*

Whole Block: A–398

Partial Blocks: A–366, A–367, A–374, A–375, A–383, A–384, A–385, A–388, A–389, A–397, A–399, A–401

*High Island, South Addition (Leasing Map TX7B)*

Partial Blocks: A–502, A–513

*Garden Banks (OPD NG15–02)*

Partial Blocks: 134, 135

Blocks that are adjacent to or beyond the United States Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap:

*Lund South (OPD NG 16–07)*

Whole Blocks: 128, 129, 169 through 173, 208 through 217, 248 through 261, 293 through 305, and 349

*Henderson (OPD NG 16–05)*

Whole Blocks: 466, 508 through 510, 551 through 554, 594 through 599, 637 through 643, 679 through 687, 722 through 731, 764 through 775, 807 through 819, 849 through 862, 891 through 905, 933 through 949, and 975 through 992

Partial Blocks: 467, 511, 555, 556, 600, 644, 688, 732, 776, 777, 820, 821, 863, 864, 906, 907, 950, 993, and 994

*Florida Plain (OPD NG 16–08)*

Whole Blocks: 5 through 24, 46 through 67, 89 through 110, 133 through 154, 177 through 197, 221 through 240, 265 through 283, 309 through 327, and 363 through 370

All whole and portions of blocks deferred by the Gulf of Mexico Energy Security Act of 2006, Public Law 109–432:

*Pensacola (OPD NH 16–05)*

Whole Blocks: 751 through 754, 793 through 798, 837 through 842, 881 through 886, 925 through 930, and 969 through 975



*Destin Dome (OPD NH 16–08)*

Whole Blocks: 1 through 7, 45 through 51, 89 through 96, 133 through 140, 177 through 184, 221 through 228, 265 through 273, 309 through 317, 353 through 361, 397 through 405, 441 through 450, 485 through 494, 529 through 538, 573 through 582, 617 through 627, 661 through 671, 705 through 715, 749 through 759, 793 through 804, 837 through 848, 881 through 892, 925 through 936, and 969 through 981

*DeSoto Canyon (OPD NH 16–11)*

Whole Blocks: 1 through 15, 45 through 59, and 92 through 102  
Partial Blocks: 16, 60, 61, 89 through 91, 103 through 105, and 135 through 147

*Henderson (OPD NG 16–05)*

Partial Blocks: 114, 158, 202, 246, 290, 334, 335, 378, 379, 422, and 423

The following blocks, whose lease status is currently under appeal:

Keathley Canyon (*Leasing Map NG15–05*)  
Blocks 290, 291, and 292

Keathley Canyon (*Leasing Map NG15–05*)  
Blocks 246 and 247

*Keathley Canyon (Leasing Map NG15–05)*

Blocks 335 and 336  
Vermilion Area (*Leasing Map LA3*) Partial Block 179

**II. Statutes and Regulations**

Each lease is issued pursuant to OCSLA, 43 U.S.C. 1331–1356, as amended, and is subject to OCSLA implementing regulations promulgated pursuant thereto in 30 CFR part 556, and other applicable statutes and regulations in existence upon the effective date of the lease, as well as those applicable statutes enacted and regulations promulgated thereafter, except to the extent that the after-enacted statutes and regulations explicitly conflict with an express provision of the lease. Each lease is also subject to amendments to statutes and regulations, including but not limited to OCSLA, that do not explicitly conflict with an express provision of the lease. The lessee expressly bears the risk that such new or amended statutes and

regulations (*i.e.*, those that do not explicitly conflict with an express provision of the lease) may increase or decrease the lessee's obligations under the lease.

**III. Lease Terms and Economic Conditions***Lease Terms***OCS Lease Form**

BOEM will use Form BOEM–2005 (February 2017) to convey leases resulting from this sale. This lease form may be viewed on BOEM's website at <http://www.boem.gov/BOEM-2005>.

The lease form will be amended to conform with the specific terms, conditions, and stipulations applicable to the individual lease. The terms, conditions, and stipulations applicable to this sale are set forth below.

**Primary Term**

Primary Terms are summarized in the following table:

Water depth (meters)	Primary term
0 to <400 .....	The primary term is 5 years; the lessee may earn an additional 3 years ( <i>i.e.</i> , for an 8 year extended primary term) if a well is spudded targeting hydrocarbons below 25,000 feet True Vertical Depth Subsea (TVD SS) during the first 5 years of the lease.
400 to <800 .....	The primary term is 5 years; the lessee will earn an additional 3 years ( <i>i.e.</i> , for an 8 year extended primary term) if a well is spudded during the first 5 years of the lease.
800 to <1,600 .....	The primary term is 7 years; the lessee will earn an additional 3 years ( <i>i.e.</i> , for a 10 year extended primary term) if a well is spudded during the first 7 years of the lease.
1,600 + .....	10 years.

(1) The primary term for a lease in water depths less than 400 meters issued as a result of this sale is 5 years. If the lessee spuds a well targeting hydrocarbons below 25,000 feet TVD SS within the first 5 years of the lease, then the lessee may earn an additional 3 years, resulting in an 8 year primary term. The lessee will earn the 8 year primary term when the well is drilled to a target below 25,000 feet TVD SS, or the lessee may earn the 8 year primary term in cases where the well targets, but does not reach, a depth below 25,000 feet TVD SS due to mechanical or safety reasons, where sufficient evidence is provided that it did not reach that target for reasons beyond the lessee's control.

In order to earn the 8 year extended primary term, the lessee is required to submit to the BOEM GOM Regional Supervisor for Leasing and Plans, as soon as practicable, but in any instance not more than 30 days after completion of the drilling operation, a letter providing the well number, spud date, information demonstrating a target below 25,000 TVD SS and whether that target was reached, and if applicable,

any safety, mechanical, or other problems encountered that prevented the well from reaching a depth below 25,000 feet TVD SS. This letter must request confirmation that the lessee earned the 8 year primary term. The extended primary term is not effective unless and until the lessee receives confirmation from BOEM.

The BOEM GOM Regional Supervisor for Leasing and Plans will confirm in writing, within 30 days of receiving the lessee's letter, whether the lessee has earned the extended primary term and update BOEM records accordingly.

A lessee that has earned the 8 year primary term by spudding a well with a hydrocarbon target below 25,000 feet TVD SS during the standard 5 year primary term of the lease will not be granted a suspension for that same period under the regulations at 30 CFR 250.175 because the lease is not at risk of expiring.

(2) The primary term for a lease in water depths ranging from 400 to less than 800 meters issued as a result of this sale is 5 years. If the lessee spuds a well within the 5 year primary term of the

lease, the lessee will earn an additional 3 years, resulting in an 8 year primary term.

In order to earn the 8 year primary term, the lessee is required to submit to the BOEM GOM Regional Supervisor for Leasing and Plans, as soon as practicable, but in no case more than 30 days after spudding a well, a letter providing the well number and spud date, and requesting confirmation that the lessee earned the 8 year extended primary term. Within 30 days of receipt of the request, the BOEM GOM Regional Supervisor for Leasing and Plans will provide written confirmation of whether the lessee has earned the extended primary term and update BOEM records accordingly.

(3) The standard primary term for a lease in water depths ranging from 800 to less than 1,600 meters issued as a result of this sale is 7 years. If the lessee spuds a well within the standard 7 year primary term, the lessee will earn an additional 3 years, resulting in a 10 year extended primary term.

In order to earn the 10 year primary term, the lessee is required to submit to

the BOEM GOM Regional Supervisor for Leasing and Plans, as soon as practicable, but in no case more than 30 days after spudding a well, a letter providing the well number and spud date, and requesting confirmation that the lessee earned the 10 year primary term. Within 30 days of receipt of the request, the BOEM GOM Regional Supervisor for Leasing and Plans will provide written confirmation of whether the lessee has earned the extended primary term and update BOEM records accordingly.

(4) The primary term for a lease in water depths 1,600 meters or greater issued as a result of this sale will be 10 years.

#### *Economic Conditions*

##### Minimum Bonus Bid Amounts

- \$25.00 per acre or fraction thereof for blocks in water depths less than 400 meters; and
- \$100.00 per acre or fraction thereof for blocks in water depths 400 meters or deeper.

BOEM will not accept a bonus bid unless it provides for a cash bonus in an amount equal to, or exceeding, the specified minimum bid of \$25.00 per acre or fraction thereof for blocks in water depths less than 400 meters, and \$100.00 per acre or fraction thereof for blocks in water depths 400 meters or deeper.

##### Rental Rates

Annual rental rates are summarized in the following table:

**RENTAL RATES PER ACRE OR FRACTION THEREOF**

Water depth (meters)	Years 1–5	Years 6, 7, & 8 +
0 to <200 .....	\$7.00	\$14.00, \$21.00, & \$28.00.
200 to <400 .....	11.00	22.00, 33.00, & 44.00.
400 + .....	11.00	16.00.

#### Escalating Rental Rates for Leases With an 8-Year Primary Term in Water Depths Less Than 400 Meters

Any lessee with a lease in less than 400 meters water depth who earns an 8 year primary term will pay an escalating rental rate as shown above. The rental rates after the fifth year for blocks in less than 400 meters water depth will become fixed and no longer escalate, if another well is spudded targeting hydrocarbons below 25,000 feet TVD SS after the fifth year of the lease, and BOEM concurs that such a well has been spudded. In this case, the rental rate will become fixed at the rental rate in effect during the lease year in which the additional well was spudded.

#### Royalty Rate

- 12.5 Percent for leases situated in water depths less than 200 meters; and
- 18.75 percent for leases situated in water depths of 200 meters and deeper.

#### Minimum Royalty Rate

- \$7.00 Per acre or fraction thereof per year for blocks in water depths less than 200 meters; and
- \$11.00 per acre or fraction thereof per year for blocks in water depths 200 meters or deeper.

#### Royalty Suspension Provisions

The issuance of leases with Royalty Suspension Volumes (RSVs) or other forms of royalty relief is authorized under existing BOEM regulations at 30 CFR part 560. The specific details relating to eligibility and implementation of the various royalty relief programs, including those involving the use of RSVs, are codified in Bureau of Safety and Environmental

Enforcement (BSEE) regulations at 30 CFR part 203.

In this sale, the only royalty relief program being offered that involves the provision of RSVs relates to the drilling of ultra-deep wells in water depths of less than 400 meters, as described in the following section.

#### Royalty Suspension Volumes on Gas Production From Ultra-Deep Wells

Leases issued as a result of this sale may be eligible for RSV incentives on gas produced from ultra-deep wells pursuant to 30 CFR part 203. These regulations implement the requirements of the Energy Policy Act of 2005 (42 U.S.C. 13201 *et seq.*). Under this program, wells on leases in less than 400 meters water depth and completed to a drilling depth of 20,000 feet TVD SS or deeper receive a RSV of 35 billion cubic feet on the production of natural gas. This RSV incentive is subject to applicable price thresholds set forth in the regulation at 30 CFR part 203.

#### IV. Lease Stipulations

Consistent with the Record of Decision for the Final Programmatic Environmental Impact Statement for the 2017–2022 Five Year OCS Oil and Gas Leasing Program, Stipulation No. 5 (Topographic Features) and Stipulation No. 8 (Live Bottom) will apply to every lease sale in the GOM Program Area. One or more of the remaining eight stipulations may be applied to leases issued as a result of this sale. The detailed text of the following stipulations is contained in the “Lease Stipulations” section of the Final NOS package.

(1) Military Areas

- (2) Evacuation
- (3) Coordination
- (4) Protected Species
- (5) Topographic Features
- (6) United Nations Convention on the Law of the Sea Royalty Payment
- (7) Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico
- (8) Live Bottom
- (9) Blocks South of Baldwin County, Alabama
- (10) Below Seabed Restrictions due to Rights-of-Use and Easement for Floating Production Facilities

#### V. Information to Lessees

Information to Lessees (ITLs) provides detailed information on certain issues pertaining to specific oil and gas lease sales. The detailed text of the ITLs for this sale is contained in the “Information to Lessees” section of the Final NOS package.

- (1) Navigation Safety
- (2) Ordnance Disposal Areas
- (3) Existing and Proposed Artificial Reefs/Rigs-to-Reefs
- (4) Lightering Zones
- (5) Indicated Hydrocarbons List
- (6) Military Areas
- (7) Bureau of Safety and Environmental Enforcement (BSEE) Inspection and Enforcement of Certain U.S. Coast Guard (USCG) Regulations
- (8) Significant Outer Continental Shelf Sediment Resource Areas
- (9) Notice of Arrival on the Outer Continental Shelf
- (10) Bidder/Lessee Notice of Obligations Related to Criminal/Civil Charges and Offenses, Suspension, or

- Debarment; Disqualification Due to a Conviction under the Clean Air Act or the Clean Water Act
- (11) Protected Species
- (12) Proposed Expansion of the Flower Garden Banks National Marine Sanctuary
- (13) Communication Towers
- (14) Deepwater Port Applications for Offshore Oil and Liquefied Natural Gas Facilities
- (15) Ocean Dredged Material Disposal Sites
- (16) Rights-of-Use and Easement
- (17) Industrial Waste Disposal Areas
- (18) Gulf Islands National Seashore
- (19) Air Quality Permit/Plan Approvals

#### VI. Maps

The maps pertaining to this lease sale may be viewed on BOEM's website at <http://www.boem.gov/Sale-250/>. The following maps also are included in the Final NOS package:

#### Lease Terms and Economic Conditions Map

The lease terms and economic conditions associated with leases of certain blocks are shown on the map entitled, "Final, Gulf of Mexico Region-wide Oil and Gas Lease Sale 250, March 2018, Lease Terms and Economic Conditions."

#### Stipulations and Deferred Blocks Map

The lease stipulations and the blocks to which they apply are shown on the map entitled, "Final, Gulf of Mexico Region-wide Oil and Gas Lease Sale 250, March 2018, Stipulations and Deferred Blocks Map."

### VII. Bidding Instructions

Bids may be submitted in person or by mail at the address below in the "Mailed Bids" section. Bidders submitting their bid(s) in person are advised to email [boemgomrleasesales@boem.gov](mailto:boemgomrleasesales@boem.gov) to provide the names of the company representative(s) who will submit the bid(s). Instructions on how to submit a bid, secure payment of the advance bonus bid deposit (if applicable), and what information must be included with the bid are as follows:

#### Bid Form

For each block bid upon, a separate sealed bid must be submitted in a sealed envelope (as described below) and include the following:

- Total amount of the bid in whole dollars only;
- Sale number;
- Sale date;
- Each bidder's exact name;
- Each bidder's proportionate interest, stated as a percentage, using a

maximum of five decimal places (e.g., 33.33333%);

- Typed name and title, and signature of each bidder's authorized officer;
- Each bidder's qualification number;
- Map name and number or Official Protraction Diagram (OPD) name and number;
- Block number; and
- Statement acknowledging that the bidder(s) understand that this bid legally binds the bidder(s) to comply with all applicable regulations, including those requiring it to post a deposit in the amount of one-fifth of the bonus bid amount for any tract bid upon and make payment of the balance of the bonus bid upon BOEM's acceptance of high bids.

The information required on the bid(s) is specified in the document "Bid Form" contained in the Final NOS package. A blank bid form is provided in the Final NOS package for convenience and may be copied and completed with the necessary information described above.

#### Bid Envelope

Each bid must be submitted in a separate sealed envelope labeled as follows:

- "Sealed Bid for GOM Region-wide Sale 250, not to be opened until 9 a.m. Wednesday, March 21, 2018;"
- Map name and number or OPD name and number;
- Block number for block bid upon; and
- The exact name and qualification number of the submitting bidder only.

The Final NOS package includes a sample bid envelope for reference.

#### Mailed Bids

If bids are mailed, please address the envelope containing the sealed bid envelope(s) as follows: Attention: Leasing and Financial Responsibility Section, BOEM Gulf of Mexico Region, 1201 Elmwood Park Boulevard WS-266A, New Orleans, Louisiana 70123-2394. Contains Sealed Bids for GOM Region-wide Sale 250. Please Deliver to Mr. Greg Purvis, 2nd Floor, Immediately.

**Please Note:** Bidders mailing bid(s) are advised to inform BOEM by email to [boemgomrleasesales@boem.gov](mailto:boemgomrleasesales@boem.gov) immediately after putting their bid(s) in the mail. This is to ensure receipt of bids prior to the Bid Submission Deadline. If BOEM receives bids later than the Bid Submission Deadline, the BOEM GOM Regional Director (RD) will return those bids unopened to bidders. Please see "Section XI. Delay of Sale" regarding BOEM's discretion to extend the Bid Submission Deadline in the case of an unexpected event (e.g., flooding or travel restrictions) and how bidders can obtain more information on such extensions.

#### Advance Bonus Bid Deposit Guarantee

Bidders that are not currently an OCS oil and gas lease record title holder or designated operator, or those that ever have defaulted on a one-fifth bonus bid deposit, by Electronic Funds Transfer (EFT) or otherwise, must guarantee (secure) the payment of the one-fifth bonus bid deposit prior to bid submission using one of the following four methods:

- Provide a third-party guarantee;
- Amend an area-wide development bond via bond rider;
- Provide a letter of credit; or
- Provide a lump sum payment in advance via EFT.

For more information on EFT procedures, see Section X of this document entitled, "The Lease Sale."

#### Affirmative Action

Prior to bidding, each bidder should file the Equal Opportunity Affirmative Action Representation Form BOEM-2032 (October 2011, <http://www.boem.gov/BOEM-2032/>) and Equal Opportunity Compliance Report Certification Form BOEM-2033 (October 2011, <http://www.boem.gov/BOEM-2033/>) with the BOEM GOM Adjudication Section. This certification is required by 41 CFR part 60 and Executive Order No. 11246, issued September 24, 1965, as amended by Executive Order No. 11375, issued October 13, 1967, and by Executive Order No. 13672, issued July 21, 2014. Both forms must be on file for the bidder(s) in the GOM Adjudication Section prior to the execution of any lease contract.

#### Geophysical Data and Information Statement (GDIS)

The GDIS is composed of three parts: (1) The "Statement" page includes the company representatives' information and lists of blocks bid on that used proprietary data and those blocks bid on that did not use proprietary data; (2) The "Table" listing the required data about each proprietary survey used (see below); and (3) The "Maps" being the live trace maps for each proprietary survey that are identified in the GDIS statement and table.

Every bidder submitting a bid on a block in GOM Region-wide Sale 250, or participating as a joint bidder in such a bid, must submit at the time of bid submission all three parts of the GDIS. A bidder must submit the GDIS *even if a joint bidder or bidders on a specific block also have submitted a GDIS*. Any speculative data that has been reprocessed externally or "in-house" is

considered proprietary due to the proprietary processing and is no longer considered to be speculative.

The GDIS must be submitted in a separate and sealed envelope, and must identify all proprietary data; reprocessed speculative data, and/or any Controlled Source Electromagnetic surveys, Amplitude Versus Offset (AVO), Gravity, or Magnetic data; or other information used as part of the decision to bid or participate in a bid on the block. The bidder and joint bidder must also include a live trace map (e.g., .pdf and ArcGIS shape file) for each proprietary survey that they identify in the GDIS illustrating the actual areal extent of the proprietary geophysical data in the survey (see the "Example of Preferred Format" in the Final NOS package for additional information). The shape file should not include cultural information; only the live trace map of the survey itself.

The GDIS statement must include the name, phone number, and full address of a contact person and an alternate who are both knowledgeable about the geophysical information and data listed and who are available for 30 days after the sale date. The GDIS statement also must include a list of all blocks bid upon that did not use proprietary or reprocessed pre- or post-stack geophysical data and information as part of the decision to bid or to participate as a joint bidder in the bid. The GDIS statement must be submitted even if no proprietary geophysical data and information were used in bid preparation for the block.

The GDIS table should have columns that clearly state:

- The sale number;
- The bidder company's name;
- The block area and block number bid on;
- The owner of the original data set (i.e., who initially acquired the data);
- The industry's original name of the survey (e.g., E Octopus);
- The BOEM permit number for the survey;
- Whether the data set is a fast track version;
- Whether the data is speculative or proprietary;
- The data type (e.g., 2-D, 3-D, or 4-D; pre-stack or post-stack; and time or depth);
- The Migration algorithm (e.g., Kirchhoff Migration, Wave Equation Migration, Reverse Migration, Reverse Time Migration);
- The Live Proprietary Survey Coverage (e.g., line miles for 2-D surveys or number of blocks for 3-D surveys);

- The computer storage size, to the nearest gigabyte, of each seismic data and velocity volume used to evaluate the lease block;

- Who reprocessed the data and when the date of final reprocessing was completed (month and year);

- If data was previously sent to BOEM, list the sale and date of sale for which it was used; and

- Indicate if proprietary or Speculative AVO/AVA (PROP/SPEC) was used.

The computer storage size information will be used in estimating the reproduction costs for each data set, if applicable. The availability of reimbursement of production costs will be determined consistent with 30 CFR 551.13.

An example of the preferred format of the table is contained in the Final NOS package, and a blank digital version of the preferred table can be accessed on the GOM Region-wide Sale 250 web page at <http://www.boem.gov/Sale-250>.

The GDIS maps are live trace maps (e.g., .pdf and ArcGIS shape files) that should be submitted for each proprietary survey that is identified in the GDIS table. They should illustrate the actual areal extent of the proprietary geophysical data in the survey (see the "Example of Preferred Format" in the Final NOS package for additional information). As previously stated, the shape file should not include cultural information; only the live trace map of the survey itself. Pursuant to 30 CFR 551.12 and 30 CFR 556.501, as a condition of the sale, the BOEM Gulf of Mexico RD requests that all bidders and joint bidders submit the proprietary data identified on their GDIS within 30 days after the lease sale (unless they are notified after the lease sale that BOEM has withdrawn the request). This request only pertains to proprietary data that is not commercially available. Commercially available data is not required to be submitted to BOEM, and reimbursement will not be provided if such data is submitted by a bidder. The BOEM Gulf of Mexico RD will notify bidders and joint bidders of any withdrawal of the request, for all or some of the proprietary data identified on the GDIS, within 15 days of the lease sale. Pursuant to 30 CFR part 551 and 30 CFR 556.501, as a condition of this sale, all bidders that are required to submit data must ensure that the data is received by BOEM no later than the 30th day following the lease sale, or the next business day if the submission deadline falls on a weekend or Federal holiday.

The data must be submitted to BOEM at the following address: Bureau of

Ocean Energy Management, Resource Studies, GM 881A, 1201 Elmwood Park Blvd., New Orleans, LA 70123-2304.

BOEM recommends that bidders mark the submission's external envelope as "Deliver Immediately to DASPU."

BOEM also recommends that the data be submitted in an internal envelope, or otherwise marked, with the following designation: "Proprietary Geophysical Data Submitted Pursuant to GOM Region-wide Sale 250 and used during <Bidder Name's> evaluation of Block <Block Number>."

In the event a person supplies any type of data to BOEM, that person must meet the following requirements to qualify for reimbursement:

(1) The person must be registered with the System for Award Management (SAM), formerly known as the Central Contractor Registration (CCR). CCR usernames will not work in SAM. A new SAM User Account is needed to register or update an entity's records. The website for registering is <https://www.sam.gov>.

(2) The persons must be enrolled in the Department of Treasury's Invoice Processing Platform (IPP) for electronic invoicing. The person must enroll in the IPP at <https://www.ipp.gov/>. Access then will be granted to use the IPP for submitting requests for payment. When a request for payment is submitted, it must include the assigned Purchase Order Number on the request.

(3) The persons must have a current On-line Representations and Certifications Application at <https://www.sam.gov>.

**Please Note:** The GDIS Information Table must be submitted digitally, preferably as an Excel spreadsheet, on a CD, DVD, or any USB external drive (formatted for Windows), along with the seismic data map(s). If bidders have any questions, please contact Ms. Dee Smith at (504) 736-2706, or Mr. John Johnson at (504) 736-2455.

Bidders should refer to Section X of this document, "The Lease Sale: Acceptance, Rejection, or Return of Bids," regarding a bidder's failure to comply with the requirements of the Final NOS, including any failure to submit information as required in the Final NOS or Final NOS package.

#### *Telephone Numbers/Addresses of Bidders*

BOEM requests that bidders provide this information in the suggested format prior to or at the time of bid submission. The suggested format is included in the Final NOS package. The form must not be enclosed inside the sealed bid envelope.

#### *Additional Documentation*

BOEM may require bidders to submit other documents in accordance with 30

CFR 556.107, 30 CFR 556.401, 30 CFR 556.501, and 30 CFR 556.513.

### VIII. Bidding Rules and Restrictions

#### *Restricted Joint Bidders*

On November 14, 2017, BOEM published the most recent List of Restricted Joint Bidders in the **Federal Register** at 82 FR 52743. Potential bidders are advised to refer to the **Federal Register**, prior to bidding, for the most current List of Restricted Joint Bidders in place at the time of the lease sale. Please refer to the joint bidding provisions at 30 CFR 556.511–515.

#### *Authorized Signatures*

All signatories executing documents on behalf of bidder(s) must execute the same in conformance with the BOEM qualification records. Bidders are advised that BOEM considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including that requiring payment of one-fifth of the bonus bid on all high bids. A statement to this effect is included on each bid form (see the document “Bid Form” contained in the Final NOS package).

#### *Unlawful Combination or Intimidation*

BOEM warns bidders against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

#### *Bid Withdrawal*

Bids may be withdrawn only by written request delivered to BOEM prior to the Bid Submission Deadline. The withdrawal request must be on company letterhead and must contain the bidder's name, its BOEM qualification number, the map name/number, and the block number(s) of the bid(s) to be withdrawn. The withdrawal request must be executed in conformance with the BOEM qualification records. Signatories must be authorized to bind their respective legal business entity (e.g., a corporation, partnership, or LLC) and documentation must be on file with BOEM setting forth this authority to act on the business entity's behalf for purposes of bidding and lease execution under OCSLA (e.g., business charter or articles, incumbency certificate, or power of attorney). The name and title of the authorized signatory must be typed under the signature block on the withdrawal request. The BOEM Gulf of Mexico RD, or the RD's designee, will indicate their approval by signing and dating the withdrawal request.

#### *Bid Rounding*

Minimum bonus bid calculations, including rounding, for all blocks will

be shown in the document “List of Blocks Available for Leasing” included in the Final NOS package. The bonus bid amount must be stated in whole dollars. If the acreage of a block contains a decimal figure, then prior to calculating the minimum bonus bid, BOEM will round up to the next whole acre. The appropriate minimum rate per acre will then be applied to the whole (rounded up) acreage. If this calculation results in a fractional dollar amount, the minimum bonus bid will be rounded up to the next whole dollar amount. The bonus bid amount must be greater than or equal to the minimum bonus bid in whole dollars.

### IX. Forms

The Final NOS package includes instructions, samples, and/or the preferred format for the following items. BOEM strongly encourages bidders to use the recommended formats. If bidders use another format, they are responsible for including all the information specified for each item in the Final NOS package.

- (1) Bid Form
- (2) Sample Completed Bid
- (3) Sample Bid Envelope
- (4) Sample Bid Mailing Envelope
- (5) Telephone Numbers/Addresses of Bidders Form
- (6) GDIS Form
- (7) GDIS Envelope Form

### X. The Lease Sale

#### *Bid Opening and Reading*

Sealed bids received in response to the Final NOS will be opened at the place, date, and hour specified under the **DATES** section of the Final NOS. The venue will not be open to the public. Instead, the bid opening will be available for the public to view on BOEM's website at [www.boem.gov](http://www.boem.gov) via live-streaming. The opening of the bids is for the sole purpose of publicly announcing and recording the bids received; no bids will be accepted or rejected at that time.

#### *Bonus Bid Deposit for Apparent High Bids*

Each bidder submitting an apparent high bid must submit a bonus bid deposit to the Office of Natural Resources Revenue (ONRR) equal to one-fifth of the bonus bid amount for each such bid. A copy of the notification of the high bidder's one-fifth bonus bid amount may be obtained on the BOEM website at <http://www.boem.gov/Sale-250> under the heading “Notification of EFT 1/5 Bonus Liability” after 1:00 p.m. on the day of the sale. All payments must be deposited electronically into an

interest-bearing account in the U.S. Treasury by 11:00 a.m. Eastern Time the day following the bid reading (no exceptions). Account information is provided in the “Instructions for Making Electronic Funds Transfer Bonus Payments” found on the BOEM website identified above.

BOEM requires bidders to use EFT procedures for payment of one-fifth bonus bid deposits for GOM Region-wide Sale 250 following the detailed instructions contained on the ONRR Payment Information web page at <http://www.onrr.gov/FM/PayInfo.htm>. Acceptance of a deposit does not constitute and will not be construed as acceptance of any bid on behalf of the United States.

#### *Withdrawal of Blocks*

The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

#### *Acceptance, Rejection, or Return of Bids*

The United States reserves the right to reject any and all bids. No bid will be accepted, and no lease for any block will be awarded to any bidder, unless:

- (1) The bidder has complied with all requirements of the Final NOS, including those set forth in the documents contained in the Final NOS package, and applicable regulations;
- (2) The bid is the highest valid bid; and

- (3) The amount of the bid has been determined to be adequate by the authorized officer.

Any bid submitted that does not conform to the requirements of the Final NOS and Final NOS package, OCSLA, or other applicable statute or regulation will be rejected and returned to the bidder. The U.S. Department of Justice and the Federal Trade Commission will review the results of the lease sale for antitrust issues prior to the acceptance of bids and issuance of leases.

#### *Bid Adequacy Review Procedures for GOM Region-Wide Sale 250*

To ensure that the U.S. Government receives a fair return for the conveyance of leases from this sale, high bids will be evaluated in accordance with BOEM's bid adequacy procedures, which are available at <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Bid-Adequacy-Procedures.aspx>.

#### *Lease Award*

BOEM requires each bidder awarded a lease to:

(1) Execute all copies of the lease (Form BOEM–2005 (February 2017), as amended);

(2) Pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155 and 556.520(a); and

(3) Satisfy the bonding requirements of 30 CFR part 556, subpart I, as amended. ONRR requests that only one transaction be used for payment of the balance of the bonus bid amount and the first year's rental. When ONRR receives such payment, the bidder awarded the lease may not request a refund of the balance bonus bid amount or first year's rental payment.

#### **XI. Delay of Sale**

The BOEM Gulf of Mexico RD has the discretion to change any date, time, and/or location specified in the Final NOS package in the case of an event that the BOEM Gulf of Mexico RD deems may interfere with the carrying out of a fair and orderly lease sale process. Such events could include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, and floods), wars, riots, acts of terrorism, fires, strikes, civil disorder, or other events of a similar nature. In case of such events, bidders should call (504) 736–0557, or access the BOEM website at <http://www.boem.gov>, for information regarding any changes.

Dated: February 13, 2018.

**Walter D. Cruickshank,**

*Acting Director, Bureau of Ocean Energy Management.*

[FR Doc. 2018–03278 Filed 2–15–18; 8:45 am]

**BILLING CODE 4310–MR–P**

## **INTERNATIONAL TRADE COMMISSION**

### **Notice of Receipt of Complaint; Solicitation of Comments; Relating to the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Multi-Domain Test and Measurement Instruments*, DN 3295; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission,

U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Tektronix, Inc. on February 09, 2018. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain multi-domain test and measurement instruments. The complaint names as respondents: Rohde & Schwarz USA, Inc. of Columbia, MD; Rohde & Schwarz GmbH & Co. KG of Germany; and Rohde & Schwarz Vertriebs GmbH of Germany. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the

United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3295) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures<sup>1</sup>.) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf).

treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 12, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2018-03206 Filed 2-15-18; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-592 and 731-TA-1400 (Preliminary)]

### Plastic Decorative Ribbon From China; Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of plastic decorative ribbon from China,

provided for in subheadings 3920.20.00, 3926.40.00, 3920.10.00, 3920.20.00, 3920.30.00, 3920.43.50, 3920.49.00, 3920.62.00, 3920.69.00, 3921.90.11, 3921.90.15, 3921.90.19, 3921.90.40, 3926.90.99, 5404.90.00, 9505.90.40, 4601.99.90, 4602.90.00, 5609.00.30, 5609.00.40, and 6307.90.98 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV") and to be subsidized by the government of China.

### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce ("Commerce") of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### Background

On December 27, 2017, Berwick Offray LLC, Berwick, Pennsylvania filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of plastic decorative ribbon from China and LTFV imports of plastic decorative ribbon from China. Accordingly, effective December 27, 2017, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701-TA-592 and antidumping duty investigation No. 731-TA-1400 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 3, 2018 (83 FR 395). The conference was held in Washington, DC, on January 17, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on February 12, 2018. The views of the Commission are contained in USITC Publication 4763 (February 2018), entitled *Plastic Decorative Ribbon from China: Investigation Nos. 701-TA-592 and 731-TA-1400 (Preliminary)*.

By order of the Commission.

Issued: February 12, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2018-03207 Filed 2-15-18; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1110-XXXX]

### Agency Information Collection Activities; Proposed eCollection Comments Requested; Approval of a New Collection

**AGENCY:** Laboratory Division Federal Bureau of Investigation Laboratory Division Survey of Forensic Science Services, Federal Bureau of Investigation, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Laboratory Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** allowing for a 60 day comment period.

**DATES:** Comments are encouraged and will be accepted for 30 days until March 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).



response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted via email to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Approval of a new collection.

(2) *Title of the Form/Collection:* Federal Bureau of Investigation Laboratory Division Survey of Forensic Science Services.

(3) *Agency Form Number:* The form is unnumbered.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* This form will be utilized by the FBI Laboratory Division to collect feedback from state and local law enforcement agencies that have used the FBI Laboratory Division for forensic science examinations. The results of this survey will inform a five year forensic discipline portfolio projection for the Laboratory Division. The Laboratory Division is using this survey as a tool to answer questions about what their specific forensic science priorities are

and how they value each forensic discipline; whether the Laboratory Division is servicing these specific needs; what they perceive as strengths and weaknesses of the FBI LD, and if they've identified trends in criminal investigations that a laboratory should be addressing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,000 respondents will respond. We estimate the form will be completed within approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 500 total annual burden hours associated with this collection.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: February 13, 2018.

**Melody Braswell,**  
Department Clearance Officer, PRA, U.S.  
Department of Justice.

[FR Doc. 2018-03238 Filed 2-15-18; 8:45 am]

**BILLING CODE P**

#### DEPARTMENT OF JUSTICE

##### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On February 12, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of Louisiana in the lawsuit titled *United States and Louisiana Department of Environmental Quality v. Shell Chemical LP*, Civil Action No. 2:18-cv-1404-EEF-JVM.

The United States and Louisiana Department of Environmental Quality filed this lawsuit under the Clean Air Act and Louisiana Environmental Quality Act. The complaint seeks injunctive relief and civil penalties based on violations of the Clean Air Act's New Source Review requirements, New Source Performance Standards, National Emissions Standards for Hazardous Air Pollutants, "Title V" program requirements and operating permits, and related Louisiana state implementation plan requirements. The alleged violations involve flares used at a chemical plant owned and operated by defendant Shell Chemical LP in Norco, Louisiana. The consent decree requires

the defendant to perform injunctive relief, including operating a facility fence-line monitoring system, and pay \$350,000 in civil penalties, with \$262,500 to be paid to the United States and \$87,500 to be paid to LDEQ.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Louisiana Department of Environmental Quality v. Shell Chemical LP*, D.J. Ref. No. 90-5-2-1-11603. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a> .
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$37.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$26.75.

**Thomas P. Carroll,**

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018-03220 Filed 2-15-18; 8:45 am]

**BILLING CODE 4410-15-P**



**DEPARTMENT OF JUSTICE****Bureau of Justice Statistics**

[OMB Number 1121-0346]

**Agency Information Collection  
Activities: Proposed eCollection  
eComments Requested;  
Reinstatement, With Change, of a  
Previously Approved Collection: 2018  
Census of State and Local Law  
Enforcement Agencies (CSLLEA)****AGENCY:** Bureau of Justice Statistics,  
Department of Justice.**ACTION:** 30-Day Notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on Thursday, November 16, 2017, allowing a 60-day comment period. Following publication of the 60-day notice, the Bureau of Justice Statistics received three requests for the survey instrument and one communication containing general comments on the importance of the collection.

**DATES:** Comments are encouraged and will be accepted for 30 days until March 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Shelley S. Hyland, Statistician, Law Enforcement Statistics Unit, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: [Shelley.Hyland@usdoj.gov](mailto:Shelley.Hyland@usdoj.gov); phone: 202-616-1706). Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2018 Census of State and Local Law Enforcement Agencies (CSLLEA).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ-38. The applicable component within the Department of Justice that is sponsoring this collection is the Bureau of Justice Statistics, Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will include all publicly-funded state, county, local and tribal law enforcement agencies in the United States that employ the equivalent of at least one full-time sworn officer with general arrest powers. Both general purpose agencies (i.e., any public agency with sworn officers whose patrol and enforcement responsibilities are primarily delimited by the boundaries of a municipal, county, or state government) and special purpose agencies (e.g., tribal, campus law enforcement, transportation, natural resources, etc.) meeting the above description will be asked to respond.

*Abstract:* BJS has conducted the CSLLEA regularly since 1986. The 2018 CSLLEA will be the seventh administration. Historically, the CSLLEA generates an enumeration of all publicly funded state, county, local and tribal law enforcement agencies operating in the United States. The CSLLEA provides complete personnel

counts and an overview of the functions performed for approximately 20,000 law enforcement agencies operating nationally.

The 2018 CSLLEA collection involves two phases. In the first phase, BJS will cognitively test the revised instrument with 48 agencies based on agency type (i.e., local and county police, sheriff's office, or special purpose) and size (i.e., 100 or more full-time equivalent sworn officers or less than 100 full-time equivalent sworn officers). A maximum of 8 agencies of each type and size will participate in testing. BJS has reduced the number of items from the 2014 administration but has included additional items on limited sworn officers. Additionally, BJS will continue to refine the universe frame by verifying agency in-service status, contact information and de-duplicating agencies.

Pending positive results from the first phase, in the second phase, BJS will conduct the main data collection. The 2018 CSLLEA is designed to collect general information on state, county, local and tribal law enforcement agencies. The survey asks about the level of government that operates the agency; total operating budget; full-time and part-time personnel counts for fully sworn officers, limited sworn officers and non-sworn employees; gender and primary job responsibility of full-time sworn officers; and the functions the agency performs on a regular or primary basis. Upon completion, the 2018 CSLLEA will serve as the sampling frame for future law enforcement surveys administered by BJS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* For the cognitive testing, BJS is planning 48 agencies with an estimated total respondent burden of 90 minutes. For the full data collection, BJS estimates a maximum of 20,000 state, county, local and tribal law enforcement agencies with a respondent burden of about 45 minutes per agency, including the follow-up time.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total respondent burden for the cognitive testing is 72 hours. The maximum respondent burden for the full data collection is approximately 15,000 burden hours. Therefore, total burden for both phases is approximately 15,072 burden hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and

Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: February 13, 2018.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2018-03216 Filed 2-15-18; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF LABOR

### Office of Workers' Compensation Programs

#### Division of Longshore and Harbor Workers' Compensation Proposed Extension of Existing Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs (OWCP) is soliciting comments concerning the proposed collection: Notice of Payment (LS-208). A copy of the proposed information collection request can be obtained by contacting the office listed below in the address section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before April 17, 2018.

**ADDRESSES:** You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW, Room S-3323, Washington, DC 20210; by fax to (202) 354-9647; or by Email to [ferguson.yoon@dol.gov](mailto:ferguson.yoon@dol.gov). Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers' injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees.

Under sections 914(b) & (c) of the Longshore Act, a self-insured employer or insurance carrier is required to pay compensation within 14 days after the employer has knowledge of the injury or death and immediately notify the district director of the payment. Under Section 914(g), the employer/carrier is required to issue notification of final payment of compensation. Form LS-208 has been designated as the proper form on which report of those payments is to be made.

### II. Review Focus

The Department of Labor is particularly interested in comments which:

- \* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- \* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- \* enhance the quality, utility and clarity of the information to be collected; and

- \* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

### III. Current Actions

The Department of Labor seeks the extension of approval of this information collection in order to carry out its responsibility to meet the statutory requirements to provide compensation or death benefits under the Act to workers covered by the Act.

*Agency:* Office of Workers' Compensation Programs.

*Type of Review:* Extension.

*Title:* Notice of Payments.

*OMB Number:* 1240-0041.

*Agency Number:* LS-208.

*Affected Public:* Business or other for-profit.

*Total Respondents:* 600.

*Total Annual Responses:* 37,800.

*Estimated Total Burden Hours:* 6,300.

*Estimated Time per Response:* 10 minutes.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$16,112.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 6, 2018.

**Yoon Ferguson,**

*Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.*

[FR Doc. 2018-03183 Filed 2-15-18; 8:45 am]

**BILLING CODE 4510-CF-P**

## NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE

[NCMNPS Docket No. 05-2018-01]

### Request for Information on Improving the Military Selective Service Process and Increasing Participation in Military, National, and Public Service

**AGENCY:** National Commission on Military, National, and Public Service.

**ACTION:** Request for comments.

**SUMMARY:** The National Commission on Military, National, and Public Service (the "Commission") was created by Congress in the National Defense Authorization Act of Fiscal Year 2017 to "conduct a review of the military selective service process (commonly referred to as 'the draft')" and to consider methods to increase participation in military, national, and public service in order to address national security and other public service needs of the Nation. In connection with this effort, Congress has directed the Commission to seek written comments from the general public and interested parties on matters of the Commission's review. The Commission seeks to learn more about the general public's views on these topics, including what has encouraged or discouraged them to perform voluntary or paid services for their communities at all levels.

**DATES:** Comments are due by April 19, 2018.

**ADDRESSES:** You may submit comments, identified by Docket No. 05–2018–01, by any of the following methods:

- **Email:** [national.commission.on.service.info@mail.mil](mailto:national.commission.on.service.info@mail.mil). Please include the docket number in the subject line of the message.

- **Website:** <http://www.inspire2serve.gov/content/share-your-thoughts>. Follow the instructions on the page to submit a comment and include the docket number in the comment.

- **Mail:** National Commission on Military, National, and Public Service, Attn: RFI COMMENT—Docket 05–2018–01, 2530 Crystal Drive, Suite 1000, Room 1029 Arlington, VA 22202.

All submissions received must include the docket number. If the Commission cannot read your comment due to technical difficulties and cannot contact you for clarification, the Commission may not be able to consider your comment. Late comments will be considered.

**FOR FURTHER INFORMATION CONTACT:** For general inquiries, submission process questions, or any additional information about this request for comments, please contact Rachel Rikleen, at (703) 571–3760 or by email at [national.commission.on.service.info@mail.mil](mailto:national.commission.on.service.info@mail.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The National Defense Authorization Act for Fiscal Year 2017, Public Law 114–328, 130 Stat. 2000 (2016), created the National Commission on Military, National, and Public Service (the “Commission”) to “conduct a review of the military selective service process (commonly referred to as ‘the draft’)” and to “consider methods to increase participation in military, national, and public service in order to address national security and other public service needs of the Nation.” Public Law 114–328, Subtitle F, Section 551.

To this end, Congress has specifically directed the Commission to consider: “(1) the need for a military selective service process, including the continuing need for a mechanism to draft large numbers of replacement combat troops; (2) means by which to foster a greater attitude and ethos of service among United States youth, including an increased propensity for military service; (3) the feasibility and advisability of modifying the military selective service process in order to obtain for military, national, and public service individuals with skills (such as medical, dental, and nursing skills,

language skills, cyber skills, and science, technology, engineering, and mathematics (STEM) skills) for which the Nation has a critical need, without regard to age or sex; and (4) the feasibility and advisability of including in the military selective service process, as so modified, an eligibility or entitlement for the receipt of one or more Federal benefits (such as educational benefits, subsidized or secured student loans, grants or hiring preferences) specified by the Commission for purposes of the review.” *Id.*

The Commission’s work is also guided by a series of principles issued by the President on April 3, 2017. See House Doc 115–27, available at <https://www.gpo.gov/fdsys/pkg/CDOC-115hdoc27/pdf/CDOC-115hdoc27.pdf>. Those principles addressed questions raised by Congress that are similar to those included below under “Specific Topics to Address.”

The Commission is required to provide the President and Congress a final report containing its findings and recommendations regarding these matters no later than March 2020. In preparing the report, the Commission must engage the American public, hearing directly from them about these topics. In particular, Congress has directed the Commission to seek written comments from the general public and interested parties on matters of the Commission’s review within seven months of its establishment date, which means April 19, 2018. This notice and request for comments is intended to meet that statutory requirement.

##### II. Other Engagement Opportunities

The Commission is also receiving formal input from a number of Federal agencies. The Commission’s enabling statute requires the Secretary of Defense to issue a preliminary report on the current and future need for a centralized registration system under the Military Selective Service Act, and the Comptroller General to perform a review of the procedures used by the Defense Department in evaluating the selective service requirements. Additionally, several Federal agencies are required under the Commission’s enabling statute to offer to the Commission recommendations for the reform of the military selective service process and military, national, and public service in connection with that process.

The Commission will hold a series of public meetings on these topics as it prepares its report for Congress and the President. Information about those meetings will be made available on the

Commission’s website, <http://www.inspire2serve.gov>.

##### III. Specific Topics to Address

The Commission would welcome comments on any of the specific topics for which Congress has requested Commission input. These are set forth above under “Background.”

In addition, the Commission would welcome comments on any of the following specific topics:

(1) Is a military draft or draft contingency still a necessary component of U.S. national security?

(2) Are modifications to the selective service system needed?

(3) How can the United States increase participation in military, national, and public service by individuals with skills critical to address the national security and other public service needs of the nation?

(4) What are the barriers to participation in military, national, or public service?

(5) Does service have inherent value, and, if so, what is it?

(6) Is a mandatory service requirement for all Americans necessary, valuable, and feasible?

(7) How does the United States increase the propensity for Americans, particularly young Americans, to serve?

Dated: February 12, 2018.

**Kent Abernathy,**

*Executive Director.*

[FR Doc. 2018–03261 Filed 2–15–18; 8:45 am]

**BILLING CODE P**

#### NATIONAL SCIENCE FOUNDATION

##### Sunshine Act Meetings; National Science Board

The National Science Board (NSB), pursuant to National Science Foundation (NSF) regulations (45 CFR part 614), the National Science Foundation Act, as amended, (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of meetings for the transaction of NSB business as follows:

**TIME AND DATE:** Wednesday, February 21, 2018, from 8:15 a.m. to 5:15 p.m. and Thursday, February 22, 2018, from 8:30 a.m. to 2:00 p.m. EST.

**PLACE:** These meetings will be held at the NSF headquarters, 2415 Eisenhower Avenue, Alexandria, VA 22314. Meetings are held in the boardroom on the 2nd floor. The public may observe public meetings held in the boardroom. All visitors must contact the Board Office (call 703–292–7000 or send an

email to [nationalsciencebrd@nsf.gov](mailto:nationalsciencebrd@nsf.gov)) at least 24 hours prior to the meeting and provide your name and organizational affiliation. Visitors must report to the NSF visitor's desk in the building lobby to receive a visitor's badge.

**STATUS:** Some of these meetings will be open to the public. Others will be closed to the public. See full description below.

**MATTERS TO BE CONSIDERED:**

**Wednesday, February 21, 2018**

*Plenary Board Meeting*

Open Session: 8:15–8:45 a.m.

- NSB Chair's Opening Remarks
- NSF Director's Remarks
- Summary of DC Meetings

*Committee on Oversight (CO)*

Open Session: 8:45–9:45 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- Discussion of Merit Review Topics for Deeper Analysis
- Inspector General's Update
- Management Challenges
- FY 2017 Financial Statement Audit
- Federal Information Security Management Act Results
- Chief Financial Officer's Update

*Committee on External Engagement (EE)*

Open Session: 9:45–10:30 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- *Indicators 2018* Rollout
- Listening Sessions
- Private Sector Engagement
- Board Members Hosting Members of Congress

*Committee on Awards and Facilities (A&F)*

Open Session: 10:45–11:30 a.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- Rolling Schedule of Planned Action and Information Items
- National Ecological Observatory Network (NEON) Update
- Member Report from November Antarctica Visit

*Committee on National Science and Engineering Policy (SEP)*

Open Session: 1:00–2:00 p.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- Outcomes of the SEP Retreat
- Discussion of Policy Companion Statement to *S&E Indicators 2018* Topics

*Committee on Strategy (CS)*

Open Session: 2:00–2:30 p.m.

- Committee Chair's Opening Remarks

- Approval of Prior Minutes
- FY 2018 Budget Update
- FY 2019 Budget Request Updated

*Committee on Strategy (CS)*

Closed Session: 2:30–3:00 p.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- FY 2019 and FY 2020 Budget Discussion

*Committee on Awards and Facilities (A&F)*

Closed Session: 3:15–5:15 p.m.

- Committee Chair's Opening Remarks
- Approval of Prior Minutes
- Action Item: NSF's National Center for Optical-Infrared Astronomy (NCOA)
- Directorate of Geosciences Overview for Information/Action Items
- Information Item: National Center for Atmospheric Research (NCAR) Operations and Maintenance
- Information Item: NSF's Geophysical Observatory for Geosciences (NGEO) Operations and Maintenance
- Information Item: Ocean Observatories Initiative (OOI) Operations and Maintenance
- Information Item: Contract Services for Arctic Research Support and Logistics

**MATTERS TO BE DISCUSSED:**

**Thursday, February 22, 2018**

*A&F Committee*

Closed Session Continues: 8:30–9:30 a.m.

- Information Item: Laser Interferometer Gravitational-Wave Observatory Operations and Maintenance
- Astronomy Facilities Divestment Update

*Plenary Board*

Closed Session: 9:30–9:50 a.m.

- Board Chair's Opening Remarks
- Director's Remarks
- Approval of Prior Minutes
- Closed Committee Reports
- Vote: NSF's National Center for Optical-Infrared Astronomy (NCOA)

*Plenary Board (Executive)*

Closed Session: 9:50–10:15 a.m.

- Board Chair's Opening Remarks
- Approval of Prior Minutes
- Director's Remarks
- Appointment of Election Committee for May 2018 Board Elections

*Skilled Technical Workforce Task Force*

Open Session: 10:30–11:15 a.m.

- Chair's Opening Remarks
- "Grow With Google" Presentation

*Plenary Board*

Open Session: 11:15–11:45 a.m.

- Board Chair's Opening Remarks
- Discussion of Academy of Arts and Sciences Report—"Future of Undergraduate Education"

*Plenary Board*

Open Session Continues: 1:15–2:00 p.m.

- Board Chair's Opening Remarks
- NSF Director's Remarks
- Approval of Prior Minutes
- Open Committee Reports
- NSF's Implementation of the American Innovation and Competitiveness Act (AICA)
- Board Chair's Closing Remarks

**Meeting Adjourns: 2:00 p.m.**

**MEETINGS THAT ARE OPEN TO THE PUBLIC:**

**Wednesday, February 21, 2018**

8:15–8:45 a.m. Plenary NSB

Introduction

8:45–9:45 a.m. Committee on Oversight (CO)

9:45–10:30 a.m. Committee on External Engagement (EE)

10:45–11:30 a.m. Committee on Awards & Facilities (AF)

1:00–2:00 p.m. Committee on National Science and Engineering Policy (SEP)

2:00–2:30 p.m. Committee on Strategy (CS)

**Thursday, February 22, 2018**

10:30–11:15 a.m. Skilled Technical Workforce Task Force

11:15–11:45 a.m., 1:15–2:00 p.m. Plenary

**MEETINGS THAT ARE CLOSED TO THE PUBLIC:**

**Wednesday, February 21, 2018**

2:30–3:00 p.m. (CS)

3:15–5:15 p.m. (A&F)

**Thursday, February 22, 2018**

8:30–9:30 a.m. (A&F)

9:30–9:50 a.m. Plenary

9:50–10:15 a.m. Plenary Executive

**CONTACT PERSONS FOR MORE**

**INFORMATION:** The NSB Office contact is Brad Gutierrez, [bgutierrez@nsf.gov](mailto:bgutierrez@nsf.gov), 703–292–7000. The NSB Public Affairs contact is Nadine Lymn, [nlymn@nsf.gov](mailto:nlymn@nsf.gov), 703–292–2490.

**SUPPLEMENTARY INFORMATION:** Public meetings and public portions of meetings held in the 2nd floor boardroom will be webcast. To view these meetings, go to: <http://www.tvworldwide.com/events/nsf/180221> and follow the instructions. The public may observe public meetings held in the boardroom. The address is

2415 Eisenhower Avenue, Alexandria, VA 22314.

Please refer to the NSB website for additional information. You will find any updated meeting information and schedule updates (time, place, subject matter, or status of meeting) at <https://www.nsf.gov/nsb/meetings/notices.jsp#sunshine>.

The NSB will continue its program to provide some flexibility around meeting times. After the first meeting of each day, actual meeting start and end times will be allowed to vary by no more than 15 minutes in either direction. As an example, if a 10:00 meeting finishes at 10:45, the meeting scheduled to begin at 11:00 may begin at 10:45 instead. Similarly, the 10:00 meeting may be allowed to run over by as much as 15 minutes if the Chair decides the extra time is warranted. The next meeting would start no later than 11:15. Arrive at the NSB boardroom or check the webcast 15 minutes before the scheduled start time of the meeting you wish to observe.

**Chris Blair,**

*Executive Assistant, National Science Board Office.*

[FR Doc. 2018-03316 Filed 2-14-18; 11:15 am]

BILLING CODE 7555-01-P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting March 8–10, 2018, 11545 Rockville Pike, Rockville, Maryland 20852.

#### Thursday, March 8, 2018, Conference Room T-2B1, 11545 Rockville Pike, Rockville, Maryland 20852

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)*—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.–10:30 a.m.: Regulatory Guide 1.232, “Guidance for Developing Principal Design Criteria for Non-Light Water Reactors” (Open)*—The Committee will hear briefings by and discussion with representatives of the NRC staff regarding the subject guide.

*10:45 a.m.–12:15 p.m.: Topical Report ANP-1033P, Revision 0, “AURORA-B: An Evaluation Model for Boiling Water Reactors; Application to Control Rod Drop Accident (CRDA)” (Closed)*—The

Committee will hear briefings by and discussion with representatives of the NRC staff and Framatome regarding the subject topical report. [NOTE: This session is closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

*1:15 p.m.–2:45 p.m.: Accident Tolerant Fuel (Open)*—The Committee will hear briefings by and discussion with representatives of the NRC staff regarding licensing activities related to accident tolerant fuel.

*3:00 p.m.–4:00 p.m.: APR1400: PLUS7 Fuel (Open/Closed)*—The Committee will hear briefings by and discussion with representatives of the NRC staff and KNHP regarding the subject topical reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

*4:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will continue its discussion of proposed ACRS reports [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

#### Friday, March 9, 2018, Conference Room T-2B1, 11545 Rockville Pike, Rockville, Maryland 20852

*8:30 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)*—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings. [NOTE: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

*10:00 a.m.–11:00 a.m.: Preparation for Meeting with Commission (Open)*—The Committee will hear discussion on preparation for upcoming meeting with the Commission in April.

*11:00 a.m.–12:00 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

*1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

#### Saturday, March 10, 2018, Conference Room T-2B1, 11545 Rockville Pike, Rockville, Maryland 20852

*8:30 a.m.–12:00 p.m.: Preparation of ACRS Reports (Open/Closed)*—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301-415-5844, Email: [Quynh.Nguyen@nrc.gov](mailto:Quynh.Nguyen@nrc.gov)), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92-463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are

available through the NRC Public Document Room at [pdr.resource@nrc.gov](http://pdr.resource@nrc.gov), or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/ACRS/>.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301-415-6702), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated at Rockville, Maryland, on February 13, 2018.

For the Nuclear Regulatory Commission.  
**Russell E. Chazell,**

*Advisory Committee Management Officer.*

[FR Doc. 2018-03264 Filed 2-15-18; 8:45 am]

BILLING CODE 7590-01-P

## POSTAL REGULATORY COMMISSION

[Docket No. CP2018-167]

### 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 20, 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):* CP2018-167; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* February 12, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:*

Timothy J. Schwuchow; *Comments Due:* February 20, 2018.

This notice will be published in the **Federal Register**.

**Stacy L. Ruble,**  
*Secretary.*

[FR Doc. 2018-03250 Filed 2-15-18; 8:45 am]

BILLING CODE 7710-FW-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82690; File No. SR-BOX-2018-06]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt IM-8040-3 to Rule 8040

February 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 5, 2018, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 the Substance of the Proposed Rule Change

The Exchange proposes to adopt IM-8040-3 to Rule 8040. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxoptions.com>.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 statements 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.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt IM-8040-3 to Rule 8040. Specifically, the Exchange is proposing that Directed Orders<sup>3</sup> may be submitted with an Auction Only designation. Further, the Exchange is proposing that a Directed Order with an Auction Only designation will be cancelled if it is not entered into the PIP by the Executing Participant ("EP").<sup>4</sup>

Pursuant to Rule 8040(d), upon receipt of a Directed Order from an Order Flow Provider ("OFP")<sup>5</sup> an EP must either submit the Directed Order to the PIP process or send the Directed Order to the BOX Book. Further, a Directed Order is sent to the BOX Book if (i) the EP has not taken action within one second of receipt of a Directed Order,<sup>6</sup> (ii) the Market Maker that the order is directed to has not systematically indicated that it is an EP,<sup>7</sup> (iii) a Guaranteed Directed Order<sup>8</sup> has been automatically generated and is pending, then upon receipt of a subsequent Directed Order for the same EP for the same series and side of the market,<sup>9</sup> or (iv) a Directed Order is modified once the Trading Host has established a GDO.<sup>10</sup> Therefore, under the proposal, if the Directed Order with an Auction Only designation is to be sent to the BOX Book, regardless of the reason, it will instead be cancelled back to the OFP that submitted the Directed

Order.<sup>11</sup> The Auction Only designation is automatically applied by the system and the designation is not disclosed to the EP. Therefore, the Exchange does not believe the proposed designation will alter the behavior of the EP or provide any advantage to the EP.<sup>12</sup>

The Exchange notes that the proposed Auction Only designation is an optional designation that the submitting OFP may decide to utilize. The Exchange believes the proposed change will provide increased flexibility to OFPs when executing orders on the Exchange as well as provide execution certainty because the Directed Order will either execute via the PIP or be cancelled back. The Exchange further believes that the proposed designation will make the Directed Order process more attractive to Participants that are searching for liquidity<sup>13</sup> and the potential for price improvement.

The Exchange will provide at least two weeks' notice to Participants via Circular prior to the launch of the proposed change. The Exchange anticipates launching in the second quarter of 2018.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>14</sup> in general, and Section 6(b)(5) of the Act,<sup>15</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the Exchange believes the proposed rule change is designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system by providing an additional tool and greater

flexibility for Participants executing orders on the Exchange as well as providing execution certainty. The Exchange also believes the proposal will provide opportunity for Participants to achieve better handling of orders by providing Participants with this additional functionality. As a result, adopting this proposal to allow Directed Orders to be submitted with the Auction Only designation will promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in facilitating transactions in securities.

As mentioned above, the EP is not notified that a Directed Order was submitted with the Auction Only designation and therefore there is no unfair advantage bestowed on the EP as a result of the proposal. As such, the proposal is designed to prevent fraudulent and manipulative acts and practices.

The Exchange believes that the proposal removes impediments to and perfects the mechanism of a free and open market by enhancing the Exchange's market by providing market participants the ability to send Directed Orders with an Auction Only designation to the Exchange. As such, BOX believes that the proposed change will increase flexibility to OFPs when executing orders on the Exchange.

The Exchange believes that the proposed Auction Only designation will provide OFPs with a valuable tool when executing orders on the Exchange. As such, the Exchange believes that the proposed change removes impediments to and perfects the mechanism of a free and open market because the proposed change further promotes competition among options exchanges. The Exchange believes that the proposed additional functionality for executing Directed Orders will protect investors and the public interest by providing OFPs with greater flexibility and opportunity for their orders on the Exchange. The Exchange believes this increased opportunity will lead to enhanced order flow to the Exchange, which in turn will benefit and protect investors and the public interest through the potential for greater volume of orders and executions on BOX. The Exchange believes that the proposed rule change is not designed to permit unfair discrimination between customers, issues, brokers, or dealers because the proposed additional tool for Directed Orders is open to all OFPs and is completely voluntary. As such, the Exchange believes the proposed change is consistent with the Act.

<sup>3</sup> The term "Directed Order" means any Customer Order to buy or sell contracts on a single option series which has been directed to a particular Market Maker by an Order Flow Provider. See Rule 100(a)(19). Unlike all other orders submitted to the BOX Trading Host, Directed Orders are not anonymous. The Options Participant identification number ("Participant ID") of the OFP sending the Directed Order will be given to the Market Maker recipient. See Rule 8040(d).

<sup>4</sup> An Executing Participant ("EP") is a Market Maker who desires to accept Directed Orders.

<sup>5</sup> The terms "Order Flow Provider" or "OFP" mean those Options Participants representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading. See Rule 100(a)(46).

<sup>6</sup> See Rule 8040(d)(4).

<sup>7</sup> See Rule 8040(d)(1).

<sup>8</sup> If a Directed Order is executable against the current NBBO and the EP is also quoting at such NBBO on the opposite side of the Directed Order, then the Trading Host will immediately upon receipt of the Directed Order take down the EP's quote and shall guarantee the EP's execution of the Directed Order for at least the price and size of the EP's quote. This guarantee shall be called a Guaranteed Directed Order ("GDO"). The EP's quote shall not be reestablished until the Directed Order has been processed pursuant to Rule 8040(d). See Rule 8040(d)(2)(i).

<sup>9</sup> See Rule 8040(d)(2)(iii).

<sup>10</sup> See Rule 8040(d)(5).

<sup>11</sup> Interest on the BOX Book may still interact with a Directed Order that has the Auction Only designation via the PIP allocation. See Rule 7150(g).

<sup>12</sup> The Exchange notes that there currently are restrictions on an EP's behavior that will continue to apply. Specifically, an EP shall not submit to BOX a contra order to the Directed Order for his proprietary account during the one second following his submission of the Directed Order to BOX. See Rule 8040(d)(6)(i).

<sup>13</sup> Pursuant to Rule 7150(f), a Customer Order that is submitted to the PIP must be submitted with a matching contra side order equal to the full size of the Customer Order, as such, the order is guaranteed to be fully executed.

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).



### *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 Act. On the contrary, the Exchange believes that the proposed feature to Directed Orders will enhance competition in the U.S. option markets by providing enhanced functionality thereby making the Exchange more competitive with other exchanges. Additionally, respecting intra-market competition, the additional feature for Directed Orders will be available to all OFPs that submit Directed Orders to the Exchange.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2018-06 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-BOX-2018-06. 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-BOX-2018-06, and should be submitted on or before March 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-03199 Filed 2-15-18; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-82693; File No. SR-FINRA-2018-003]**

### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to Simplified Arbitration**

February 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 29, 2018, Financial Industry Regulatory

Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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**

FINRA is proposing to amend FINRA Rules 12600 and 12800 of the Code of Arbitration Procedure for Customer Disputes ("Customer Code") and 13600 and 13800 of the Code of Arbitration Procedure for Industry Disputes ("Industry Code," and together with the Customer Code, the "Codes"), to amend the hearing provisions to provide an additional hearing option for parties in arbitration with claims of \$50,000 or less, excluding interest and expenses.

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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 Codes provide two methods for administering arbitration cases with claims involving \$50,000 or less, excluding interest and expenses. The default method is a decision by a single arbitrator based on the parties' pleadings and other materials submitted by the parties. The alternative method involves a full hearing with a single arbitrator. Under the Customer Code, a customer may request a hearing (regardless of whether the customer is a claimant or respondent),<sup>3</sup> and under the Industry Code, the claimant may request

<sup>16</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See FINRA Rule 12800(c).



a hearing.<sup>4</sup> If a hearing is requested, it is generally held in-person, and there are no limits on the number of hearing sessions that can take place.

FINRA believes that forum users with claims involving \$50,000 or less would benefit by having an additional, intermediate form of adjudication that would provide them with an opportunity to argue their cases before an arbitrator in a shorter, limited telephonic hearing format. Therefore, FINRA is proposing to amend the Codes to include a Special Proceeding for Simplified Arbitration (“Special Proceeding”). The Special Proceeding would be limited to two hearing sessions, exclusive of prehearing conferences,<sup>5</sup> with parties being given time limits for their presentations. As discussed above, parties with claims involving \$50,000 or less are currently limited to a decision based on the pleadings and other materials submitted by the parties, or a full hearing that typically takes place in-person and is not limited in duration. While a party might wish for an opportunity to present his or her case to an arbitrator, the travel and expenses associated with a full hearing might prevent that party from requesting one. In addition, the prospect of cross-examination by an opposing party might act as a deterrent for parties seeking to avoid a direct confrontation with their opponents. These concerns particularly impact *pro se*, senior, and seriously ill parties.

The suggestion to propose an intermediate form of adjudication originated from the FINRA Dispute Resolution Task Force (“Task Force”).<sup>6</sup> The Task Force observed that customers whose cases were decided on the papers were the least satisfied of any group of forum users. They also noted that, from the arbitrator’s perspective, it is more difficult to assess crucial issues of credibility when deciding cases on the papers. The Task Force recommended that the goal of the intermediate process should be to give the claimant personal contact with the arbitrator deciding the case and to give each party the opportunity to argue its case, to ask

questions, and to respond to contentions from the other side. The Task Force also recommended that the intermediate process should allow the arbitrator to probe contentions in the papers in an interactive format.<sup>7</sup>

FINRA considered the Task Force’s recommendations and questions in developing the format for an intermediate form of adjudication.<sup>8</sup> Accordingly, FINRA is proposing to amend Rules 12800(c) and 13800(c) to provide that parties that opt for a hearing must select between two hearing options. Option One would be the current hearing option that provides for the regular provisions of the Codes relating to prehearings and hearings, including all fee provisions. If the parties choose Option One, they would continue to have in-person hearings without time limits, and they would continue to be permitted to question opposing parties’ witnesses.

Option Two would be the new Special Proceeding subject to the regular provisions of the Code relating to prehearings and hearings, including all fee provisions, with several limiting conditions. The conditions are intended to ensure that the parties have an opportunity to present their case to an arbitrator in a convenient and cost effective manner without being subject to cross-examination by an opposing party.

Specifically:

- A Special Proceeding would be held by telephone unless the parties agree to another method of appearance;<sup>9</sup>
- the claimants, collectively, would be limited to two hours to present their case and ½ hour for any rebuttal and

<sup>7</sup> *Id.* at 29.

<sup>8</sup> The Task Force provided the following questions for FINRA to consider in developing an intermediate form of adjudication: (1) Whether parties appearing should be able to amplify positions taken in their papers and to answer questions posed by the arbitrator; (2) whether fact witnesses should be permitted to tell their stories to the arbitrator; (3) whether there should be a clear boundary between the informal, expedited adjudication and a full-blown hearing; (4) whether witnesses should be subject to cross-examination by adverse counsel; (5) whether parties should be able to compel the attendance of particular witnesses, and if so, should there be a limit; (6) what arrangements should be made for parties who are not appearing in person; and (7) whether arbitrators should use the session as an opportunity to press the parties to settle.

<sup>9</sup> The Task Force recommended allowing parties with claims involving \$50,000 or less to be able to appear in whatever manner they prefer: in person, by phone or by videoconference. FINRA determined that it is in the best interest of the parties to hold hearings by telephone because this method is the most expeditious and inexpensive format for hearings. As stated above, FINRA is proposing that parties can agree to other methods of appearance, including appearing in person or by videoconference.

closing statement, exclusive of questions from the arbitrator and responses to such questions;

- the respondents, collectively, would be limited to two hours to present their case and ½ hour for any rebuttal and closing statement, exclusive of questions from the arbitrator and responses to such questions;
- notwithstanding the abovementioned conditions, the arbitrator would have the discretion to cede his or her allotted time to the parties;
- in no event could a Special Proceeding exceed two hearing sessions, exclusive of prehearing conferences, to be completed in one day;
- the parties would not be permitted to question the opposing parties’ witnesses;
- the Customer Code would provide that a customer could not call an opposing party, a current or former associated person of a member party, or a current or former employee of a member party as a witness, and members and associated persons could not call a customer of a member party as a witness; and
- the Industry Code would provide that members and associated persons could not call an opposing party as a witness.

Except for the two hearing session time limit for a Special Proceeding, FINRA would not impose any restrictions on the arbitrator’s ability to ask the parties questions and has incorporated a substantial amount of time for arbitrator questions. Specifically, since FINRA would limit the parties’ combined presentations to five hours, the arbitrator would have up to three hours to ask questions. In addition, under the proposed rule change FINRA would not prohibit the arbitrator from allowing parties additional time for their presentations or witness testimonies, so long as the hearing on the merits is completed within the two hearing session limit.<sup>10</sup>

FINRA is further proposing to amend Rule 12800(a) to add clarity to the rule by explaining the customer’s options earlier in the rule text. FINRA is proposing to amend the sentence in Rule 12800(c) that states that “[I]f no hearing is held, no initial prehearing conference or other prehearing

<sup>10</sup> The Task Force recommended a shorter time limit on each case to enable an arbitrator to hear several cases in a hearing day and to limit the time commitment of the parties. FINRA was concerned that a period shorter than the proposed two hearing session time limit would restrict the parties’ presentations and their ability to answer questions posed by the arbitrator.

<sup>4</sup> See FINRA Rule 13800(c).

<sup>5</sup> See FINRA Rules 12100 and 13100 (Definitions). Under these rules, “hearing” means the hearing on the merits of an arbitration and a “hearing session” is defined as any meeting between the parties and arbitrator(s) of four hours or less, including a hearing or a prehearing conference.

<sup>6</sup> The Task Force was formed in 2014 to suggest strategies to enhance the transparency, impartiality, and efficiency of FINRA’s securities dispute resolution forum. On December 16, 2015, the Task Force issued its Final Report and Recommendations, available at <http://www.finra.org/sites/default/files/Final-DR-task-force-report.pdf>.

conference will be held, and the arbitrator will render an award based on the pleadings and other materials submitted by the parties.” FINRA would replace the first “held” in the sentence with the term “requested” to better reflect that a hearing would only occur if the customer requested it. FINRA believes the amendment would add clarity to the rule text. FINRA is further proposing to amend Rule 12600(a) that discusses exceptions to when required hearings will be held to specify Rule 12800(c) as one of the exceptions.

To add clarity on how arbitrators are paid in cases where the customer requests a hearing, FINRA is proposing to amend Rule 12800(f) to clarify that the regular provisions of the Code relating to arbitrator honoraria would apply in such cases. Since the Special Proceeding would be a new form of adjudication at the forum, FINRA intends to provide substantial training to arbitrators including, but not limited to, updating FINRA’s written training materials for arbitrators, posting a Neutral Workshop video on the FINRA website for arbitrators to view on-demand, and including discussions about the Special Proceeding in FINRA’s publication for arbitrators and mediators, *The Neutral Corner*. FINRA would instruct arbitrators that the arbitrator’s role in a Special Proceeding might be different than it is in a full hearing because parties would not be permitted to question opposing parties’ witnesses. FINRA would emphasize that in a Special Proceeding the arbitrator might need to ask more questions than he or she would ask in a regular hearing to gain clarity on issues and to assess witness credibility.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>11</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. As discussed above, the Task Force recommended that FINRA provide the claimant with an additional cost effective option for personal contact with the arbitrator deciding the case and give each party the opportunity to argue its case, to ask questions, and to respond to contentions from the other side. FINRA believes that the proposed rule change aligns with the Task Force’s recommendations.

In addition, FINRA believes that the proposed rule change is consistent with the provisions of the Act because it would provide parties with claims of \$50,000 or less with an additional, cost effective, hearing option for resolving disputes. FINRA believes that the proposed rule change would limit the potential costs of a hearing and provide parties with the opportunity to present their case without cross-examination from their opponents. The ability to present their case without cross-examination may benefit those who believe that a direct confrontation could intimidate their testimony. FINRA believes that the broader role of arbitrators for a Special Proceeding in asking questions of the parties would serve a similar function to cross-examination, such as gaining clarity on issues and assessing witness credibility, but within a potentially less intimidating environment.

### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

FINRA 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.

#### Economic Impact Assessment

##### (a) Need for the Rule

As noted above, the Code currently provides two methods for administering arbitration cases with claims involving \$50,000 or less, excluding interest and expenses. The default method is based exclusively on the parties’ pleadings and other materials submitted by the parties, and the alternative method involves a full hearing. Although a full hearing provides the parties a more complete opportunity to present their cases to an arbitrator, for the reasons discussed above, the parties sometimes forego a full hearing. The proposal provides an additional method for administering these arbitration cases that would allow for oral testimony while limiting the costs of the proceedings.

##### (b) Economic Baseline

The economic baseline for the proposal is the two current methods for administering arbitration cases with claims involving \$50,000 or less. The proposal is expected to affect customers, either as claimant or respondent, with a claim involving \$50,000 or less; industry parties, as claimant, with a claim involving \$50,000 or less; and industry parties as respondents to these claims. The proposal is also expected to affect FINRA arbitrators.

The parties today that opt for a decision on the pleadings or for a full hearing face trade-offs between the two choices. A decision on the pleadings is dependent solely on the parties’ pleadings and other submitted materials, and the cost to parties is generally limited to filing fees and the legal fees and expenses to submit the materials. On the other hand, a full hearing is dependent on the pleadings and submitted materials as well as oral testimony and arguments. In addition to filing fees and legal fees to submit the materials, parties can also incur arbitration hearing session fees, travel and lodging expenses, lost income, and other costs associated with the time spent at the hearings such as accommodations for dependent care. These costs increase with the number of hearings and are also dependent on the characteristics of the parties. For example, parties that live further away from the hearing site or that are less able to travel will incur higher travel costs than parties that live closer to the hearing site or that are more able to travel.<sup>12</sup> In addition, the costs associated with the time spent at hearings may be greater for some parties than for other parties.

The costs of a full hearing are greater and more uncertain at the outset than the costs of a decision on the pleadings. Among other factors, parties selecting the arbitration format will weigh the potential benefits of providing testimony and arguments at a full hearing relative to its higher and more uncertain costs. The greater and more uncertain costs of a full hearing may cause parties to forego providing oral testimony and arguments and instead opt for a decision on the pleadings. Parties also may forego providing oral testimony and arguments to avoid cross-examination.

The parties not selecting the arbitration format may instead prefer a decision on the pleadings. A decision on the pleadings is likely to minimize their costs and prevents the potential influence of oral testimony on the award decision. Alternatively, in a full hearing, these parties are likely to incur greater costs and have exposure to the potential

<sup>12</sup> In customer cases, the hearing location will generally be the location (of FINRA’s designated hearing locations) closest to the investor’s residence at the time of the events giving rise to the dispute. Investors may also seek to change the hearing location by obtaining the other party’s consent or by requesting a change from FINRA. In industry cases, the hearing location will generally be the location closest to where the associated person was employed at the time of the events giving rise to the dispute. FINRA’s hearing locations can be found at: Dispute Resolution Regional Offices and Hearing Locations.

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

persuasive influence of oral testimony and arguments on the award decision. In either instance, the parties not selecting the arbitration format would have incentive to settle a dispute and forego arbitration if the settlement amount and the costs of settling a dispute are less than the expected arbitration award and the costs of arbitrating the dispute.

For arbitration cases with close dates from January 2016 to December 2016, FINRA staff is able to identify 194 arbitration cases that had an amount of compensatory relief requested of less than or equal to \$50,000 and were closed through a decision on the pleadings (154) or by hearing (40).<sup>13</sup> Of the 40 arbitrations that FINRA staff identifies as closed by a full hearing, 29 had one or two hearing sessions, and 11 had three or more hearing sessions. The maximum number of hearing sessions was eight.

#### (c) Economic Impact

The Special Proceeding would provide a new third option for administering arbitration cases with claims involving \$50,000 or less, and would not remove the ability of parties to choose either a decision on the pleadings or a full hearing. A primary benefit of this new third option is the increase in the ability of customers and intra-industry claimants to provide oral testimony but with fewer costs, including the provision of oral testimony without cross-examination, and with greater certainty of its length than in a full hearing. In general, a Special Proceeding would increase the number of options available to customers and intra-industry claimants in choosing the method which would provide the most benefits relative to its costs, and would therefore increase the overall net benefits of the forum to these parties.

A Special Proceeding would provide customers and intra-industry claimants the benefit of providing oral testimony to an arbitrator but subject to several conditions.<sup>14</sup> These conditions not only limit the potential costs of the forum

(see below), but also provide parties the opportunity to present their case without cross-examination from their opponents. The ability to present their case without cross-examination may benefit those who believe that a direct confrontation could intimidate their testimony. As a result, arbitrators may play a broader role in a Special Proceeding in asking questions of the parties that would serve a similar function to cross-examination, such as gaining clarity on issues and assessing witness credibility, but within a potentially less intimidating environment. Arbitrators would need to spend time and incur any associated costs related to reviewing the additional training materials for a Special Proceeding.

Parties to the Special Proceeding are expected to incur lower costs to participate in the forum than parties to a full hearing, particularly if the parties proceed by telephonic conference.<sup>15</sup> The magnitude of the cost reduction to the parties would be dependent on their ability to attend hearing sessions in person; parties that reside further away from a hearing site or that have difficulty traveling would incur greater costs of an in-person hearing than parties that reside closer to a hearing site or that have less difficulty traveling.

A Special Proceeding would also limit the number of hearings, and the arbitration fees, including hearing session fees, would be based on the current fee schedule.<sup>16</sup> The limit on the number of hearing sessions requires the claimants and respondents to present their case within the span of one day. As discussed above, 11 of the 40 arbitrations with compensatory damages of less than \$50,000 that FINRA staff identified as closed by a full hearing had three or more hearing sessions. These arbitrations therefore would have required one or more days of hearings. Parties to the Special Proceeding would not be subject to additional days of hearings and its related costs (*i.e.*, legal fees and expenses, arbitration fees, lost income, and other costs associated with the time spent at the hearings), and parties to the arbitration would also not be subject to the potential delays related to the scheduling of additional hearings.

Relative to a decision on the pleadings, however, parties would incur additional costs to participate in a Special Proceeding including legal fees and expenses, arbitration and hearing session fees, and time.

The extent to which the benefits and costs associated with the forum increase or decrease for claims of \$50,000 or less is dependent on what the parties would have chosen absent this new option. Customers and intra-industry claimants would have a greater ability to choose the method based on the trade-off between the potential value of providing oral testimony and arguments with a corresponding increase in forum costs.

The costs incurred by the parties not selecting the arbitration format could increase or decrease depending on the method that would have been chosen absent the new option. If the customer or intra-industry claimant would have chosen a decision on the pleadings, then the costs to these parties such as arbitration and hearing session fees would likely increase under a Special Proceeding. They would also have exposure to the potential influence of oral testimony and arguments on the award decision. A decision to conduct a Special Proceeding in lieu of a full hearing would potentially decrease the costs incurred by these parties through lower hearing session fees and lower costs to participate in the hearings. To the extent that the Special Proceeding increases the expected costs of parties not selecting the arbitration format to participate in the forum and their exposure to the potential influence of oral testimony, these parties could have additional impetus to consider settlement.

#### (d) Alternatives Considered

FINRA considered a range of alternatives during this process. The alternatives to the proposal include more or less restrictive limiting conditions for a Special Proceeding, and providing the new option to a broader range of claims such as those with higher dollar amounts. As discussed above, the Task Force recommended allowing parties with claims involving \$50,000 or less to be able to appear in whatever manner they prefer: In person, by phone or by videoconference. FINRA determined that it is in the best interest of the parties to hold hearings by telephone because this method is the most expeditious and inexpensive format for hearings. As stated above, FINRA is proposing that parties can agree to other methods of appearance, including appearing in person or by videoconference. The Task Force also recommended a shorter time limit on

<sup>13</sup> The 194 arbitration cases were out of a total of 625 that FINRA staff identified as being closed through a decision on the pleadings or closed by hearings from January 2016 to December 2016. Approximately two-thirds of the 194 claims involved a customer as either a claimant or respondent, but typically as a claimant, and the remaining one-third of these claims involved a dispute among industry parties. Among the 40 cases that were closed by a hearing, approximately one-third involved a customer.

<sup>14</sup> A limit to the number of hearings would not only affect the arbitration fees that parties could incur but also the travel and lodging expenses, lost income, and other costs associated with the time spent at the hearings.

<sup>15</sup> FINRA believes that most hearings would proceed by telephonic conference, thereby saving time and expenses.

<sup>16</sup> The filing fees for claims are the same regardless of the method chosen to resolve the dispute and are dependent on claim size. Hearing session fees currently range from \$50, for claims up to \$2,500, to \$450, for claims greater than \$10,000. Parties that opt for a Special Proceeding or full hearing, in lieu of a decision on the pleadings, would also incur the other types of arbitration fees including pre-hearing session fees.

each case to enable an arbitrator to hear several cases in a hearing day and to limit the time commitment of the parties. FINRA was concerned that a period shorter than the proposed two hearing session time limit would restrict the parties' presentations and their ability to answer questions posed by the arbitrator. The proposal reflects the changes that FINRA believes were the most appropriate to propose for the reasons discussed herein.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2018-003 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-FINRA-2018-003. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2018-003 and should be submitted on or before March 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-03202 Filed 2-15-18; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-82687; File No. SR-ICEEU-2018-003]

**Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the ICE Clear Europe Rules for the Transition of Trading in Certain F&O Contracts**

February 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 7, 2018, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II, and III below, which Items have been prepared

primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule changes pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(4)(ii) thereunder,<sup>4</sup> so that the proposal was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change**

ICE Clear Europe proposes revising the ICE Clear Europe Rules (the "Clearing House Rules")<sup>5</sup> to add new rules to accommodate the transition of trading in certain F&O Contracts from one Market to another.

**II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

*(a) Purpose*

ICE Futures Europe has announced that certain F&O Contracts currently listed on that exchange and cleared at ICE Clear Europe will be removed from trading and that equivalent contracts will commence trading on the ICE Futures U.S., Inc. ("ICE Futures US") exchange.<sup>6</sup> Clearing of the transitioning contracts will remain at ICE Clear Europe. The purpose of the proposed amendments is to accommodate this transition under the Clearing House Rules.

Specifically, ICE Clear Europe is adopting a new Part 23 of the Rules, which will apply to the announced transition as well as any future similar transitions. Part 23 will apply where the Clearing House identifies by Circular one or more F&O Contracts for which

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(4)(ii).

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the Clearing House Rules.

<sup>6</sup> ICE Futures Europe Circular 18/002 (Jan. 10, 2018); ICE Futures Europe Circular 18/009 (Jan. 23, 2018).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

trading is to be transitioned from one Market to another (“Transitioning Contracts”) as of a designated time (the “Transition Time”). Rule 2302 adds related definitions, including the concepts of “Exiting Market” (from which the contracts are being moved) and “Receiving Market” (to which the contracts are being moved). (In connection with the announced transition between ICE Futures Europe and ICE Futures US, ICE Futures Europe would be the Exiting Market and ICE Futures US would be the Receiving Market.)

New Rule 2303 provides that as of the relevant Transition Time, trading of the Transitioning Contract will transfer from the Exiting Market to the Receiving Market. New Rule 2304(a) provides that the Transitioning Contracts will be automatically redesignated such that they become Contracts under the Market Rules of the Receiving Market and are no longer Contracts under the Market Rules of the Exiting Market. Under the Rule, the redesignated Contracts remain in full force and effect as between the relevant Clearing Member and the Clearing House.

New Rule 2304(b) further addresses the situation where the Receiving Market is a U.S. designated contract market and the Exiting Market is not. In that case, in order to comply with relevant segregation requirements under Section 4d of the U.S. Commodity Exchange Act, Transitioning Contracts registered in the Non-DCM/Swap Customer Account of an FCM/BD Clearing Member will be automatically transferred to the DCM Customer Account of such FCM/BD Clearing Member; and FCM/BD Customer Collateral in respect of such open Transitioning Contracts will be held in the Clearing House DCM Segregated Account as FCM/BD U.S. Futures Customer Collateral under the Rules.

In connection with the announced transition between ICE Futures Europe and ICE Futures US, ICE Clear Europe will issue a Circular indicating the specific contracts that are to be Transitioning Contracts and the Transition Time for purposes of Part 23 of the Rules. ICE Clear Europe has attached as Exhibit 5 hereto the list of Transitioning Contracts. The Transition Time is expected to be on or about February 18, 2018.

#### (b) Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act<sup>7</sup> and the regulations thereunder

applicable to it, and in particular are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>8</sup> ICE Clear Europe is implementing the amendments in order to facilitate the transition of the Transitioning Contracts from one Market to another in a manner designed to minimize any impact on Clearing Members and their customers. The Transitioning Contracts will continue to be eligible for clearing at ICE Clear Europe, and the terms and conditions of such contracts are not changing in any material respect. The Transitioning Contracts will be cleared by ICE Clear Europe in substantially the same manner as before the transition (other than with respect to the class of customer account, as discussed herein). With respect to the safeguarding of securities and funds in the custody or control of ICE Clear Europe, the Transitioning Contracts will become traded on ICE Futures US, a designated contract market under the Commodity Exchange Act, and as such will become subject to the segregation requirements under that act. Accordingly, the amendments provide that customer positions in Transitioning Contracts will, following the transition, be held in the DCM Customer Account and the associated margin will be held in the Clearing House DCM Segregated Account as FCM/BD U.S. Futures Customer Collateral. For the foregoing reasons, ICE Clear Europe believes that the amendments are consistent with the requirements of Section 17A(b)(3)(F) and the regulations of the Commission thereunder.

#### (B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments solely are designed to facilitate the transition of the Transitioning Contracts from one Market to another, as requested by such markets. As a result, ICE Clear Europe does not believe the amendments would adversely affect Clearing Members, materially affect the cost of clearing, adversely affect access

to clearing in F&O Contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

#### (C) Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

### III. Date of Effectiveness of the Proposed Rule Change

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and paragraph (f) of Rule 19b-4<sup>10</sup> 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.

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2018-003 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-ICEEU-2018-003. 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

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f).

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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/clear-europe/regulation#rule-filings>.

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-ICEEU-2018-003 and should be submitted on or before March 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Eduardo Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82689; File No. SR-CBOE-2018-016]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rules Related to the Complex Order Book

February 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on February 2, 2018, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the

proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules related to the Complex Order Book ("COB").

(additions are *italicized*; deletions are [bracketed])

\* \* \* \* \*

#### Cboe Exchange, Inc. Rules

\* \* \* \* \*

#### Rule 6.53C. Complex Orders on the Hybrid System

(a)–(b) No change.

(c) Complex Order Book:

(i) Routing of Complex Orders: The Exchange will determine which classes and which complex order origin types (*i.e.*, non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange) are eligible for entry into the COB and whether such complex orders can route directly to the COB and/or from PAR to the COB. *In a class in which the Exchange determines complex orders of Market-Makers and specialists on an options exchange are not eligible for entry into the COB, the Exchange may determine that Market-Makers and specialists may enter complex orders into the COB if:*

(A) *their complex orders are on the opposite side of (1) a priority customer complex order(s) resting in the COB with a price not outside the national spread market; or (2) order(s) on the same side of the market in the same strategy that initiated a COA(s) if there are "x" number of COAs within "y" milliseconds, counted on a rolling basis (the Exchange determines the number "x" (which must be at least 2) and time period "y" (which may be no more than 2,000)); and*

(B) *they cancel their complex orders, if they remain unexecuted, no later than a specified time (which the Exchange determines and may be no more than five minutes) after the time the COB receives the Market-Maker order.*

Complex orders not eligible to route to COB (either directly or from PAR to COB) will route via the order handling system pursuant to Rule 6.12.

(ii)–(iv) No change.

(d) No change.

. . . Interpretations and Policies:

.01–.12 No change.

\* \* \* \* \*

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatory>

[Home.aspx](#)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its rules related to the COB. Currently, Rule 6.53C(c)(i) states the Exchange may determine which classes and which complex order origin types (*i.e.*, non-broker-dealer public customer, broker-dealers that are not market-makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange) are eligible for entry into the COB and whether such complex orders can route directly to the COB and/or from PAR to the COB.<sup>3</sup> To the extent an origin type is not eligible for entry into the COB, complex orders with that origin type may still be entered into the System as opening-only or immediate-or-cancel, as such orders would not rest in the COB when the Exchange is open for trading.

The Exchange proposes to amend Rule 6.53C(c) to provide in a class in which the Exchange determines complex orders of Market-Makers and away market-makers are not eligible for entry into the COB, the Exchange may determine that Market-Makers and away market-makers may enter complex

<sup>3</sup> Currently, Cboe Options has determined Market-Maker (origin code "M") and market-maker or specialist on an options exchange ("away market-makers") (origin code "N") complex orders in options on the S&P 500 ("SPX" and "SPXW") and the Cboe Volatility Index ("VIX") are not eligible for entry into the COB. See Regulatory Circular RG15-195. The group of SPX options with standard third-Friday settlements trade under the SPX symbol on the Hybrid 3.0 trading system, and the group of SPX options with other settlements trade under the SPXW symbol on the Hybrid trading system. Pursuant to Rule 8.14, Interpretation and Policy .01(c), the Exchange may establish different trading parameters for each group to the extent the Exchange Rules otherwise provide for such parameters to be established on a class basis.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

orders into the COB if (1) their complex orders are on the opposite side of (A) a priority customer complex order(s) resting in the COB with a price not outside the national spread market ("NSM")<sup>4</sup> or (B) order(s) on the same side of the market in the same strategy that initiated a COA(s) if there are "x" number of COAs within "y" milliseconds, counted on a rolling basis (the Exchange will determine<sup>5</sup> the number "x" (which must be at least 2) and time period "y" (which may be no more than 2,000)) and (2) they cancel their complex orders, if such orders remain unexecuted, no later than a specified time (which the Exchange determines and may be no more than five minutes) after the time the COB receives the order. The Exchange intends to set these parameters at levels it believes will permit Market-Makers to have sufficient time to submit orders into the COB to participate in COAs, which determination the Exchange will make based on Market-Maker feedback, business conditions, and data (including trading volume data and information regarding number of executions of Market-Maker orders against complex orders).

Unlike the leg markets, in which market-makers provide liquidity through quotes, the COB has no market-maker quotes that indicate to customers the price at which liquidity providers are willing to trade against their orders.<sup>6</sup> Allowing market-makers to enter orders on the COB when there are priority customer orders on the opposite side will provide those customers with this information, thus creating potential execution opportunities for customers whose orders are not satisfied by the leg markets or other complex orders. The Exchange believes the proposed rule change will add liquidity for resting priority customer complex orders in classes in which the Exchange has determined M and N complex orders are not eligible for entry into the COB, thus increasing execution opportunities at prices potentially better than the leg markets.

Additionally, the Exchange believes it may be difficult for Market-Makers to respond to auctions, particularly when multiple auctions occur within a short amount of time, while managing risk

related to the amount executed during those auctions. Market-makers have complicated risk modeling associated with their trading activity, which factors in the size, price, and frequency at which they trade with orders. In the leg markets, those risk models factor in market-makers' quotes. However, the Exchange understands Market-Makers have separate systems for quoting and for monitoring and responding to COAs, each of which has a different risk model and set of risk controls. For example, one server process submits quotes while another server process scans the market for opportunities, such as the presence of customer orders and auctions.

It is common for Market-Makers to set risk controls with respect to the COA monitoring and response system to not respond to too many COAs within a short timeframe. If multiple COAs in a strategy occur within a short amount of time, it is common for a Market-Maker's system to determine this to be a potential system issue of the submitting Trading Permit Holder or Exchange. To ensure a Market-Maker does not trade with potentially erroneous orders and protect the Market-Maker from erroneous transactions to ensure it does not become overexposed to risk, the Market-Maker's system that monitors COAs may stop responding to COAs in this situation pursuant to the Market-Maker's risk controls for that system (e.g., the system may be programmed to only respond to a specific number of auctions within a time period). This ultimately reduces auction liquidity and potential price improvement for COA orders.

Additionally, this may result in the Market-Maker missing opportunities to participate in legitimate auctions. However, it is common for market participants to enter multiple small orders into COAs that are not erroneous (e.g., in accordance with market participants' algorithmic trading that may break up larger orders when hedging large portfolios). To the extent a Market-Maker's system stops responding to COAs in the above situation, a person may review the COAs and determine in its discretion it is appropriate to trade with the COA orders even if the System does not permit it due to automatic controls. Under the proposed rule change, that person could then submit an order to the COB that would be available to trade against those multiple COA orders up to the amount the Market-Maker is willing to trade. Even if the COAs were the result of an error by the submitting market participants, the Market-Maker that submitted a complex order that ultimately executes against those

erroneous COA errors still had an opportunity to review the sizes and prices of those orders and evaluate how much and at what prices it is willing to trade. This is no different than the possibility of a market-maker quote resting in the leg market executing against an erroneously entered order.<sup>7</sup> It is easier, and faster, for a person to submit an order to the COB to cover the amount of contracts it is willing to trade than enter individual responses to COAs given the brief COA response period (currently 100 milliseconds). Allowing Market-Makers to enter orders on the COB when there are multiple auctions occurring in short periods of time permits Market-Makers to post their trading interest up to the total amount of contracts within a single strategy they desire to trade within their risk controls for orders (as an order on the COB may trade against various COA orders), which limits execution risk while permitting them to continue to provide liquidity to price improvement auctions.<sup>8</sup>

The Exchange believes the proposed rule change also permits it to maintain the protections in those classes gained from not having M and N complex orders otherwise resting in the COB by only permitting M and N complex orders to rest in the COB under certain circumstances for limited time periods. In classes in which there is significant open outcry trading, there is generally a large number of complex orders that execute in open outcry, and such orders are generally for significant quantity. There is a risk of orders in the COB interfering with this trading. For example, if a broker represents a large buy complex order on the floor, if there is a small sell order in the COB for that strategy at a better price, the broker must trade with that resting order first. While this affords price improvement for a small portion of the buy order, this first execution lengthens the time of execution for the entire order, which may ultimately harm the customer with respect to the overall price given the speed at which the market changes. Additionally, if there is a small buy order for that strategy in the COB at a better bid price, the floor broker would not be able to clear that order and would not be able to trade until that order is no longer resting on the book at a better

<sup>4</sup> See Rule 1.1(dddd) [sic].

<sup>5</sup> Pursuant to Rule 6.53C, Interpretation and Policy .01, the Exchange will announce to Trading Permit Holders all determinations it makes pursuant to Rule 6.53C via Regulatory Circular. The Exchange will provide Trading Permit Holders with sufficient, advanced notice prior to changing any parameters it sets under the proposed rule change.

<sup>6</sup> Market-makers are unable (and not required to) submit quotes in the COB.

<sup>7</sup> The Exchange may nullify a transaction or adjust the execution price of a transaction in accordance with Rule 6.25.

<sup>8</sup> Pursuant to Rule 6.53C(d), a Market-Maker or away market-maker order on the opposite side of the auctioned order resting on the COB may be available for execution against any contracts of the auctioned order that did not execute during the auction.



price. This would ultimately disadvantage the floor broker's customer, who must now wait for execution. While non-market-maker orders are permitted in the COB in these classes, the Exchange believes these risks would be significantly heightened if market-maker orders were permitted to rest on the COB, as the Exchange expects market-makers would rest many smaller orders in reaction to hearing an order represented by a broker, which could block open outcry transactions more frequently.

For the following examples, suppose the NBBO for the VIX October 14 call is 2.50 to 2.60, and the market for the VIX October 14 put is 1.50 to 1.60. Therefore, the NSM for a straddle<sup>9</sup> is 4.00 to 4.20. Pursuant to the proposed rule change, the Exchange permits M and N orders to rest in VIX when there is an opposing side customer order resting in the COB with a price not outside \$4.00 and \$4.20 or if there are at least two COAs within a 1,000 millisecond interval, and provides Market-Makers with three minutes to cancel orders once those Market-Maker orders are received into the COB.

#### Example #1

- At 10:00 a.m., a customer submits to the COB an order to buy 20 of the VIX October 14 straddle at \$4.10 (there are no other customer orders resting in the COB to buy this strategy at any price).
- At 10:01 a.m., the customer order is still resting, and the COB receives a Market-Maker order to sell 50 of the VIX October 14 straddle at \$4.12. The Market-Maker must cancel the order by 10:04 a.m.
- At 10:04 a.m., the Market-Maker cancels the order.
- At 10:04:30 a.m., the same customer order continues to rest on the COB, and the Market-Maker enters another order to sell the straddle at \$4.11. The Market-Maker must cancel that order by 10:07:30 a.m.
- At 10:07 a.m., the Market-Maker cancels the order.

#### Example #2

- At 10:31 a.m., a customer submits to the COB an order to buy 20 of the VIX October 14 straddle at \$3.99 (there are no other customer orders resting in the COB to buy this strategy at any price).
- Market-Makers would not be permitted to enter opposing orders into the COB, because the customer order resting in the COB is priced outside of the NSM.
- At 10:35 a.m., the NSM changes from \$4.00 to \$4.20 to \$3.90 to \$4.10,

and thus the resting customer order is now within the NSM.

- At 10:38 a.m., the COB receives a Market-Maker order to sell 50 of the straddle at \$4.00.
- At 10:40 a.m., the customer cancels its resting order and submits a new order to buy 20 of the straddle at \$4.00, which executes again the resting Market-Maker order.<sup>10</sup> At 10:41 a.m., the Market-Maker cancels the remaining 30 of the straddle.

#### Example #3

- At 10:00:00:000 a.m., a customer submits an order to buy the VIX October 14 straddle, which initiates a COA (there was no other COA within the previous 1000 milliseconds), so Market-Makers may not submit an order into the COB.
- At 10:00:00:999 a.m., another customer submits an order to buy the VIX October 14 straddle, which initiates another COA. As this is the second COA within a one thousand millisecond interval, Market-Makers may submit orders to the COB.
- At 10:01:000 a.m., a Market-Maker submits to the COB an order to sell the VIX October 14 straddle at \$4.12.
- The Market-Maker must cancel the order by 10:04:000 a.m.

The time period within which a Market-Maker must cancel its complex order pursuant to the proposed rule change provides the Market-Maker with sufficient time for the opposing customer to potentially re-price its order for execution against the Market-Maker's order or for the Market-Maker order to execute against an order following a COA, while also giving the Market-Maker sufficient time to manually cancel its unexecuted orders while managing all of its trading activity. A time period that is too short may discourage market-makers from entering orders under these circumstances, but a time period that is too long may eliminate the benefits of not permitting market-maker orders to rest in the COB (as discussed above). Additionally, requiring customer orders to be not outside the NSM for Market-Makers to submit orders to the COB prevents situations in which market participants may take advantage of this functionality. For example, a customer may rest an order in the COB that is far outside the NSM (and thus unlikely to execute) for long periods of time, which would then permit Market-Makers to rest orders in the COB for such long

periods of time, because if a Market-Maker order on the COB does not trade, the Market-Maker could cancel it pursuant to the proposed rule change and then re-submit the order to the COB.

The Exchange's Regulatory Division will have surveillance in place to enforce the proposed rule change, which surveillance will monitor whether M and N orders have only been entered in the permitted circumstances described above, and whether any such unexecuted orders have been cancelled by the deadline imposed by the proposed rule change.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>11</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>12</sup> 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)<sup>13</sup> 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 rule change will add liquidity and increase customer execution opportunities at prices potentially better than the leg markets for resting priority customer complex orders and auctioned orders in classes in which the Exchange has determined M and N orders are otherwise not eligible for entry into the COB, while maintaining the protections in those classes gained from not having M and N complex orders otherwise resting in the COB,<sup>14</sup> which benefits investors. Unlike

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> *Id.*

<sup>14</sup> As discussed above, in classes in which there is significant open outcry trading, the Exchange is aware of risk that market-makers could rest orders in the COB at prices that would interfere with executions by in-crowd market participants.

<sup>9</sup> A straddle order buys or sells the put and call of the same series.

<sup>10</sup> Note the customer receives a better price than is currently offered in the leg markets—to get an execution in the leg markets, the customer would have had to buy the straddle at \$4.10.



the leg markets, in which market-makers provide liquidity through quotes, the COB has no market-maker quotes that indicate to customers the price at which liquidity providers are willing to trade against their orders. Allowing market-makers to enter orders on the COB when there are priority customer orders on the opposite side will provide those customers with this information, thus creating potential execution opportunities for customers whose orders are not satisfied by the leg markets or other complex orders.

Additionally, the Exchange believes it may be difficult for Market-Makers to respond to auctions, particularly when multiple auctions occur within a short amount of time, while managing risk related to amount executed during those auctions. Market-makers have complicated risk modeling associated with their trading activity, which factors in the size, price, and frequency at which they trade with orders. In the leg markets, those risk models factor in market-makers' quotes. However, the Exchange understands Market-Makers have separate systems for quoting and for monitoring and responding to COAs, each of which has a different risk model and set of risk controls. It is common for Market-Makers to set risk controls with respect to the COA monitoring and response system to not respond to too many COAs within a short timeframe. If multiple COAs in a strategy occur within a short amount of time, it is common for a Market-Maker's system to determine this to be a potential system issue of the submitting Trading Permit Holder or Exchange. To ensure a Market-Maker does not trade with potentially erroneous orders and protect the Market-Maker from erroneous transactions, the Market-Maker's system that monitors COAs may stop responding to COAs in this situation pursuant to the Market-Maker's risk controls for that system. This ultimately reduces auction liquidity and potential price improvement for COA orders. Allowing Market-Makers to enter orders on the COB when there are multiple auctions occurring in short periods of time permits Market-Makers to post their trading interest up to the total amount of contracts within a single strategy they desire to trade within their risk controls for orders (as an order on the COB may trade against various COA orders), which limits execution risk while permitting them to continue to provide liquidity to price improvement auctions.

Therefore, the proposed rule change will improve Market-Makers' ability to trade against orders auctioned in a short period of time while managing their risk

and thus increase execution opportunities for these orders. M and N complex orders provide customers with additional information regarding prices at which there is interest in the strategies. Current rules permit the Exchange to allow M and N orders into the COB; the rule change merely provides the Exchange with flexibility to allow this if certain conditions exist. The time period within which a Market-Maker must cancel its complex order pursuant to the proposed rule change provides the Market-Maker with sufficient time for the opposing customer to potentially re-price its order for execution against the Market-Maker's order or for the Market-Maker order to execute against an order following a COA, while also giving the Market-Maker sufficient time to manually cancel its unexecuted orders while managing all of its trading activity. A time period that is too short may discourage market-makers from entering orders under these circumstances, as they may not have time to cancel the order in time while managing all their trading activity, but a time period that is too long may eliminate the benefits of not permitting market-maker orders to rest in the COB (as discussed above). Additionally, requiring customer orders to be not outside the NSM for Market-Makers to submit orders to the COB prevents situations in which market participants may take advantage of this functionality—for example, a customer may rest an order in the COB that is far outside the NSM (and thus unlikely to execute) for long periods of time, which would then permit Market-Makers to rest orders in the COB for such long periods of time, because if a Market-Maker order on the COB does not trade, the Market-Maker could cancel it pursuant to the proposed rule change and then re-submit the order to the COB.

The Exchange's Regulatory Division will have surveillance in place to enforce the proposed rule change, which surveillance will monitor whether M and N orders have only been entered in the permitted circumstances described above, and whether any such unexecuted orders have been cancelled by the deadline imposed by the proposed rule change.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

Choe Options 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. Current Rule 6.53C(c) permits the Exchange to

determine M and N complex orders are not eligible to rest in the COB; the rule change merely provides the Exchange with flexibility to allow this if certain conditions exist. The proposed rule change permits Market-Makers to submit complex orders for entry into the COB, and cancel such orders if they remain unexecuted, in the same circumstances in those classes. If permitted, Market-Makers may enter complex orders for entry into the COB in their discretion; such order entry will not be required. Market-Makers may continue to enter opening only or immediate-or-cancel complex orders in those classes, or submit no complex orders in those classes, as they do today. Market-Makers have differing levels of resources, and some may determine to not expend resources to update systems to automatically recognize that conditions exist to permit them to rest orders in the COB. However, through discussions with Market-Makers, the Exchange understands any such system updates to require minimal expenditure. Additionally, it is possible for Market-Makers to manually observe the existence of conditions that would permit them to rest orders in the COB, and manually cancel them within the required timeframe. The proposed rule change does not require Market-Makers to submit orders to the COB if the conditions in the proposed rule change exist; such order submission would be voluntary and in Market-Makers' discretion. The proposed rule change provides all Market-Makers with the ability to submit orders to the COB in these circumstances.

The Exchange believes the proposed rule change will add liquidity and increase customer execution opportunities at prices potentially better than the leg markets for resting priority customer complex orders and auctioned orders in classes in which the Exchange has determined M and N orders are not otherwise eligible for entry into the COB. The proposed rule change will apply in the same manner to all Market-Makers in the classes in which the Exchange permits the proposed activity. The proposed rule change has no impact on intermarket competition, as it relates solely to orders that the Exchange permits to rest in its COB.

#### *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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2018-016 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-2018-016. 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-CBOE-2018-016, and should be submitted on or before March 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-03197 Filed 2-15-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82692; File No. SR-ICEEU-2018-001]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to Amendments to the ICE Clear Europe CDS Clearing Stress Testing Policy (the "Stress Testing Policy")

February 12, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 6, 2018, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II, and III below, which Items have been prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe proposes revising its Stress Testing Policy, among other matters, to recategorize certain CDS stress testing scenarios and make certain other enhancements and clarifications. These revisions do not involve any

changes to the ICE Clear Europe Clearing Rules or Procedures.<sup>3</sup>

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (a) Purpose

ICE Clear Europe proposes revising its Stress Testing Policy, among other matters, to recategorize certain CDS stress testing scenarios, address specific wrong way risk, introduce new forward looking credit event scenarios and make certain other enhancements and clarifications. These revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.<sup>4</sup>

ICE Clear Europe currently maintains a broad array of stress testing scenarios that are applied to portfolios of positions as part of its risk management practices for the CDS product category. As part of the existing policy, the Clearing House management regularly evaluates whether to retire certain scenarios or portfolios as outdated or otherwise inapplicable, and whether to add new scenarios or portfolios for testing purposes. ICE Clear Europe is not proposing to change the frequency of stress testing or of its regular reviews of stress testing scenarios, models and underlying parameters and assumptions.

The amendments generally reorganize the existing stress testing scenarios into two broad categories: Extreme but plausible market scenarios and extreme market scenarios. Extreme but plausible scenarios include both historical scenarios (such as those involving the 2008/2009 credit crisis, the Lehman Brothers default and discordant scenarios, where there are discordant moves among major indices) and hypothetical scenarios (such as

<sup>3</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the "Rules").

<sup>4</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the "Rules").

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

hypothetical inversion or steepening of credit spread curves, and scenarios that are the opposite of certain of the historical scenarios). The amendments also add a new category of forward looking credit event scenarios, which are based on historically observed extreme but plausible market scenarios augmented with the occurrence of specified adverse credit events involving both clearing member reference entities and non-clearing member reference entities. In addition it is proposed to explicitly incorporate in the range of stress test scenarios the Opposite Lehman Brothers scenario, which is derived from the existing Lehman Brothers scenario by applying a factor of -0.75 to reflect the reduced magnitude of observed price increases during the considered period.

The treatment of extreme market scenarios, which generally apply certain of the base “extreme but plausible” scenarios but with higher magnitudes of spread widening or tightening, would be clarified to state in greater detail the approach used for scaling up such factors. In particular, the approach reflects the CDS market structure and the resulting asymmetric effects of spread widening versus tightening. The amendments also remove certain specific scenario tables from the policy as unnecessary given that they are reflected in the revised general description.

The Stress Testing Policy has also been amended to expressly address specific wrong-way risk in the calculation of hypothetical losses as part of stress testing. If a portfolio being stress tested presents specific wrong way risk (*i.e.*, the risk arising where a clearing member has provided credit protection on itself or an affiliate), the calculation takes into account the full uncollateralized loss given default (in other words, it is assumed that the clearing member whose portfolio is being analyzed will default).

The provisions of the Stress Testing Policy relating to the analysis of CDS guaranty fund adequacy are being revised to clarify that stress testing is conducted for both sold and bought credit protection, in order to test the main risk drivers of clearing member portfolios which would result in full depletion of the Guaranty Fund. With respect to hypothetical spread realizations, maximum levels would similarly be set to result in full depletion of the CDS guaranty fund.

The amendments also incorporate the overall Board risk appetite and limit framework, in a manner similar to other Clearing House policies. The amendments make various other

drafting updates and clarifications, including updating references to relevant Clearing House personnel titles, management structures and governance policies. The amendments further address annual validation of models supporting the policy, routine review of the policy by Clearing House personnel, the CDS Risk Committee and Board Risk Committee, and procedures for escalation and notification of breaches of relevant thresholds.

#### (b) Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act<sup>5</sup> and the regulations thereunder applicable to it, and in particular are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>6</sup> ICE Clear Europe is implementing the amendments in order to clarify the stress scenarios being tested as well as make certain enhancements to elements of its stress testing practices. These include addressing specific wrong way risk, introduction of new forward looking credit event stress testing scenarios, and clarification of the scaling factors used to generate extreme spread widening and tightening scenarios. The amendments do not affect the Rules or Procedures, and do not otherwise affect the rights or obligations of clearing members. In ICE Clear Europe’s view, the amendments will thus enhance its ongoing stress testing practices and strengthen its risk management infrastructure, consistent with the prompt and accurate clearance and settlement of transactions and the protection of market participants and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>7</sup> In addition, the amendments are for similar reasons consistent with, and will facilitate compliance with, the specific stress testing requirements of Rule 17Ad-22(e)(4)(vi).<sup>8</sup>

#### (B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would

have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments will solely affect the method and factors utilized by ICE Clear Europe for purposes of CDS stress testing. ICE Clear Europe is not changing the Rules or Procedures, or the rights or obligations of Clearing Members. As a result, ICE Clear Europe does not believe the amendments would adversely affect Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in CDS Contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Although revisions to stress testing could ultimately affect the required level of margin or guaranty fund contributions, any such changes would, in ICE Clear Europe’s view, be appropriate in furtherance of the risk management of the Clearing House, consistent with the standards of the Act and regulations thereunder. As a result, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

#### (C) Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 17 CFR 240.17Ad-22(e)(4)(vi).

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2018-001 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICEEU-2018-001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/clear-europe/regulation#rule-filings>.

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-ICEEU-2018-001 and should be submitted on or before March 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-03201 Filed 2-15-18; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF STATE

**[Public Notice: 10310]**

### **Office of the Under Secretary of State for Public Diplomacy and Public Affairs Request for Proposal (RFP) for the Fundraising, Project Management, Design, Construction, Operation, Disassembly and Removal of a USA Pavilion at Expo 2020 Dubai**

**AGENCY:** Department of State.

**ACTION:** Request for Proposals for the Design, Development, Installation, Operation, and Final Disposition of a U.S. Pavilion at Expo Dubai 2020.

**SUMMARY:** The Expo Unit within the Office of the Under Secretary of State for Public Diplomacy and Public Affairs of the U.S. Department of State requests proposals from private U.S. individuals, firms, associations, educational institutions, and organizations (for profit and non-profit) for the fundraising, project management, design, construction, operation, and disassembly and removal of a USA Pavilion at Expo 2020 Dubai, in the United Arab Emirates (UAE) (<https://expo2020dubai.ae/>). The UAE is a strong U.S. partner, and the largest export market for U.S. goods and services in the Middle East. The six-month long Expo 2020 Dubai from October 2020-April 2021 will be the first Expo (also known as World's Fair) to take place in the Middle East, North Africa, or South Asia and is expected to attract 25 million visitors and coincides with the UAE's 50th founding anniversary. Proposals from non-U.S. citizens or non-U.S. firms or organizations shall be deemed ineligible for consideration.

**DATES:** Submit proposals on or before April 17, 2018.

**FOR FURTHER INFORMATION CONTACT:** Matthew Asada, Dubai Expo 2020 Project Manager, at [expo@state.gov](mailto:expo@state.gov) or by phone at: (202) 647-9905.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Description of Project**

##### *Authority*

Overall authority for Department of State support for U.S. participation in

international expositions is contained in Section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2452(a)(3)), also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . . to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." Pursuant to this authority, the Secretary of State has authorized the Under Secretary of State for Public Diplomacy and Public Affairs to provide for U.S. participation in international expositions abroad. The Expo Unit, in the Office of the Under Secretary for Public Diplomacy and Public Affairs, will represent the U.S. Government in dealings with the organizers of Expo 2020 Dubai and serve as the primary point of contact with the selected applicant.

##### *Background*

Expo 2020 Dubai is a large-scale, universal exposition (also known as a World's Fair) registered by the Bureau of International Expositions (BIE). The BIE is an international treaty organization established to regulate certain international exhibitions. The United States rejoined the BIE on May 10, 2017. Invitations to world's fairs are extended from the host government to other governments.

The Government of the United Arab Emirates (UAE) has invited the United States to participate in Expo 2020 Dubai and, on October 19, 2017, the Secretary of State informed the UAE Government of the U.S. Government's intention to participate with an official USA Pavilion, contingent upon identification of a viable private sector partner and successful fundraising efforts. The Expo officially opens on October 20, 2020, and closes on April 10, 2021.

With a projected 25 million visitors, 70 percent of whom will come from outside of the UAE, Expo 2020 Dubai offers an excellent opportunity to inform and inspire foreign audiences—especially those residing in the Middle East, South Asia, and East Asia—about the United States, its people, values and foreign policies, and to promote U.S. economic and commercial interests. Expo 2020 Dubai is the first World's Fair hosted in the Middle East. U.S.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

participation in Expo 2020 Dubai would reconfirm the strength and importance of U.S.-UAE bilateral ties and promote mutual understanding between Americans and peoples of the region.

#### *Content*

The theme of Expo 2020 Dubai is *Connecting Minds, Creating the Future*, representing the potential of what can be achieved when meaningful collaborations and partnerships are forged. The Expo's subthemes are *Opportunity, Mobility*, and *Sustainability* reflecting the timeless drivers of progress that continue to inspire people, organizations, and nations in their endeavors to create a better future. A detailed description of the themes and their meaning is available in the Expo 2020 Participant Guide. The USA Pavilion should emphasize the "Mobility" sub-theme and the pavilion's architecture and interior design should communicate American progress, ingenuity, and innovation in social, physical, and mechanical (transportation) mobility.

#### *U.S. Direction*

The USA Pavilion at Expo 2020 Dubai will be an official representation of the United States; the Department must therefore ensure that the USA Pavilion is nonpolitical and nonpartisan in nature, of the highest possible quality, and balanced and representative of the diversity of American political, social, and cultural life. The USA Pavilion must maintain the highest level of scholarly integrity and meet the highest standards of artistic achievement and academic excellence. It should also be entertaining and interactive. The USA Pavilion will be used to promote U.S. commercial interests, U.S. foreign policy, as well as highlight outstanding U.S. cultural, scientific, technological, and artistic achievement.

#### *Funding and Fundraising Limitations*

Section 204 of Public Law 106–113 (22 U.S.C. 2452b) limits the support the Department of State may provide for U.S. participation in international expositions registered by the Bureau of International Expositions (BIE). This includes Expo 2020 Dubai. This Request for Proposals is intended to help identify a private U.S. individual, firm, association, or organization interested in, and capable of, providing a complete Pavilion/exhibit at Expo 2020 Dubai as a gift to the United States Government. The Department of State is not authorized to provide funding for the U.S. Pavilion at Expo 2020 Dubai.

Section 5 of Public Law 115–32 (22 U.S.C. 2452b note) prohibits Department

of State employees from soliciting funds to pay expenses for a U.S. pavilion or other major exhibit at any exposition registered by the BIE.

Planning, budgeting, and operating a U.S. pavilion at a Bureau of International Expositions-recognized international exposition is a complicated, multi-year project. Cost for a representative USA Pavilion for Expo 2020 Dubai is estimated at 50–60 million USD and will be the sole responsibility of the selected organization.

The successful applicant will be responsible for all costs associated with the USA Pavilion including its fundraising, project management, design, construction, operation, and disassembly and removal of, as well as any claims arising from, the exhibit at the end of the Expo, as well as all support for the U.S. Commissioner General. The successful proposer will consult closely with and follow the guidance of Department officials and the U.S. Commissioner General with respect to Pavilion content, fundraising, and programming. The USA Pavilion shall be considered on loan to the U.S. Government. The aforementioned loan shall be treated as a gift to the U.S. Government. The U.S. Department of State is not authorized to provide federal funding for any aspect of the USA Pavilion at Expo 2020 Dubai.

The successful applicant must be able to demonstrate to the U.S. Department of State that it can raise the funds necessary to complete the project. Only after the applicant is able to secure sufficient seed funding, to be determined based on the successful applicant's proposed budget, and demonstrate viable future revenue streams will the U.S. Department of State sign a Memorandum of Agreement (MOA) with that applicant. The Department would subsequently sign a Participation Contract with the UAE's Bureau Expo Dubai 2020 (Expo Organizer).

#### *Expo Guidelines*

For information regarding the guidelines for developing the exhibits, themes, and the design and construction of a pavilion, please refer to documents produced by the Expo 2020 Dubai Organizer, including the *Theme Guide*, *Participant Guide*, and *Self-build Guide* available at: <https://www.state.gov/r/>. Exhibit content, and food and beverage offerings, should be sensitive to prevailing cultural norms and in accordance with Dubai municipal regulations.

#### *Purpose of RFP*

The purpose of this request for proposal is to find a private sector partner who will serve as the U.S. Government's fundraiser and project manager for U.S. participation in Expo 2020. This entails three main tasks: (1) Raise all the funds needed to cover the costs of the USA Pavilion at Expo 2020 Dubai; (2) manage the USA Pavilion project; and (3) conduct all operations associated with the USA Pavilion.

#### *(1) Fundraising*

As described above, the Department of State is prohibited from using its appropriated funds for the USA Pavilion at Expo 2020 Dubai and the Department's employees are prohibited from soliciting funds to pay for expenses of the USA Pavilion. Therefore, all funds for the establishment and operation of the USA Pavilion must come from other sources. It will be the responsibility of the selected entity to identify prospective sponsors, solicit the funds, and conclude sponsorship agreements. The Department must approve the selected entity's fundraising plan, process, and marketing materials.

Non-profit organizations must have nonprofit status with the IRS, or have applied for such status, at the time of application.

Once the nonprofit status of the selected proposer is confirmed, and if the proposer satisfies the U.S. citizenship requirements, the Department will issue a "Letter of Intent" to the selected organization authorizing it to proceed with fundraising to fund the USA Pavilion project. The letter will include guidelines on fundraising to be followed by the selected organization. Note that all prospective donors must be vetted by the Department of State pursuant to the Foreign Affairs Manual (2 FAM 962.1 Authority to Solicit and Accept Gift Funds <https://fam.state.gov/FAM/02FAM/02FAM0960.html>). Once the selected entity has raised sufficient seed funding to provide for U.S. participation at Expo Dubai 2020, the Department of State will sign a Memorandum of Agreement (MOA) with the selected organization.

It is estimated that a representative USA pavilion will cost between 50 and 60 million USD, depending on final design, construction, and programming. The costs, described in greater detail below, include, but are not limited to:

- Design and construction of a building to house the exhibition and provide an appealing welcome on the exterior facade; provide exterior

landscaping; incorporate appropriate internal and external crowd control features;

- Design of the exhibition and development of the story line;
- Raising all necessary funds;
- Production of exhibits, audio-visual materials, films, DVDs, videos, posters and other promotional materials needed for the exhibit;
- Development and implementation of a media engagement and communications plan to promote and advertise the USA Pavilion to U.S. and foreign audiences, before and during Expo 2020;
- All administrative, personnel and exhibit costs, including salaries, benefits, staff housing expenses, contracting and supplier costs and consulting fees as well as funding associated with guides, escorts, and protocol gifts;
- Transport, travel, insurance, postage and shipping fees of all pavilion materials;
- Security, development and implementation of a security program for the USA Pavilion in consultation with the State Department and appropriate UAE authorities;
- Tear-down, including removal of exhibits, and return of the pavilion lot in the condition required by the Expo organizers; final disposition plan must be approved by the Expo Unit;
- Cultural and informational programs associated with the exhibition, including, but not limited to, production of U.S. National Day activities (each participating country has a national day celebration at some point during the six-month fair);
- Funding all expenses associated with the U.S. Commissioner General; and,
- Creation and staffing of facilities devoted to hosting VIPs visiting the USA Pavilion.

## (2) Project Management

The selected organization would be responsible for all aspects of providing for U.S. participation in Expo 2020 Dubai. This includes, but is not limited to, (a) design, (b) construction and removal, (c) staffing, (d) programming, and (e) supporting the U.S. Commissioner General:

### a. Design of USA Pavilion

The pavilion will be the physical representation of the United States, and therefore should be worthy of representing our country and its people. The architecture and interior design of the USA Pavilion must reflect the theme of Expo 2020 Dubai, *Connecting Minds, Creating the Future*, described above.

The USA Pavilion and exhibition must maintain the highest level of scholarly integrity and meet the highest standards of artistic achievement and academic excellence. The design concept for the USA Pavilion exhibition should appeal to a general, non-expert audience.

The two main components to the design of the USA Pavilion are (i) architecture and (ii) interior design:

#### i. Architecture

National pavilions are closely associated with their architecture. The design of the USA Pavilion should be spectacular, and worthy of carrying the name of the United States. The applicant should describe how they plan to create a design that is inspiring, while remaining cost-efficient. The successful applicant will be encouraged to hold a national design competition.

#### ii. Interior Design

The concept for the pavilion structure should include an exhibition area, a live performance area, a VIP hospitality area, and administration/staff area. Food, beverage, and retail offerings can be considered, but are not required. The exhibition area is where the Expo's theme and sub-themes communicate American creativity, innovation and ingenuity to the visitors. Successful exhibits are those that communicate a message, are informative, but are also interactive and fun. The selected organization must also ensure that the exhibits are nonpolitical in nature and are of the highest possible quality. The VIP hospitality area should provide a reception space to support symposia, meetings, receptions, and delegations that advance economic and public diplomacy goals of the United States.

In designing the USA Pavilion, the selected entity is encouraged to translate the theme into an authentic portfolio of stories and perspectives that highlight the interconnections between the subthemes in a way that engages visitors of all ages. The selected entity will consult with the Department of State's Expo Unit for approval on all final designs, exhibit content, programmatic activities, and communications products.

In responding to this Request for Proposal, applicants should include a two-page Theme Statement that explains design, components and content of the USA Pavilion (per Annex) by the initial application due date. The submission should define the overall theme and the exhibits that will make up the pavilion, providing a general overview of the proposed strategy, thematic content, installations, events, and architectural expression of the

pavilion. The selected organization will be required to develop a more detailed and final Theme Statement for approval by the Expo Unit followed by full design proposals for the USA Pavilion—Concept and Final—no later than June 30, 2019.

### b. Construction and Removal of USA Pavilion

After the approval of the designs, and with necessary funding in hand, the selected entity will be responsible for constructing the USA Pavilion in Dubai in accordance with the specifications listed in the Organizer's *Self-Build Pavilions Guide*. Ideally, such a pavilion will meet the specifications for a "Large" or an "Extra Large" pavilion, but proposals should specify what size they recommend. The USA Pavilion can comprise one or more buildings. Construction of the pavilion's shell and core must be completed by October 2019. Interior work must be complete by July 2020 and exhibits must be installed by September 2020.

The selected entity is also responsible for the dismantling and removal of the USA Pavilion after conclusion of the Expo in April 2021.

The overall budget, including construction, must be reviewed by the Expo Unit before work can start, and the entity must consult with the Expo Unit before undertaking any changes in budget line items greater than \$50,000. The implementing partner will be encouraged to establish an escrow account or obtain insurance to ensure that removal of the pavilion is completed.

### c. Pavilion Staffing

Unlike other national pavilions that hire local workers to staff their pavilions, the U.S. pavilions have historically used American college students or recent graduates to staff the USA Pavilion as guides under a program called "Student Ambassadors." For Dubai, applicants may also consider supplementing the Student Ambassador program with an additional cohort of alumni from U.S. Department of State exchange programs. Proposals must include a plan for funding, recruiting and managing student "ambassadors" and Department of State exchange alumni at the USA Pavilion. All Student Ambassadors, but not the exchange program alumni, must be U.S. citizens, from a diverse set of backgrounds and U.S. states, and ideally with two or more years of college-level Arabic language or area studies course work, or equivalent ability gained through family or residence in the Arab world. The selected organization is encouraged to

partner with a U.S. higher education institution or cultural exchange program organization in the United States or abroad to manage the Student Ambassador and Exchange Alumni programs.

#### d. Programming

The selected organization will be responsible for all programming within the USA Pavilion. Proposals may include content and programming partnerships with a variety of community, educational, cultural, philanthropic, businesses, and non-profit organizations. Proposals are encouraged to identify potential linkages to existing State Department educational and cultural programs that could run concurrently with the USA Pavilion.

#### e. Supporting the U.S. Commissioner General

The selected organization will be responsible for supporting the U.S. Commissioner General, who will be appointed by the United States Government and serve as the official U.S. representative to Expo 2020. Details of this support will be specified in the Memorandum of Agreement (MOA).

#### (3) Operations

The successful proposer will be responsible for full operation of the USA Pavilion. This will include, but not be limited to, such areas as protocol, public affairs, sponsorship fulfillment, cultural programming, student guide services, communications, operations, security, cleaning, and maintenance. Office space must be adequate for the proposed number of staff.

### II. Eligibility Information

Applications may be submitted by U.S.-based individuals, firms, associations, and public and private organizations, or groups of such entities formed for this project. Non-profit organizations must meet the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3). Non-profit organizations must have nonprofit status with the IRS, or have applied for such status, at the time of application.

### III. Application and Submission Information

#### 1. Proposals

Proposals should be no longer than thirty-five (35) pages (single-spaced, single-sided) and outline, in as much detail as possible, plans for providing a pavilion and exhibition for the U.S. Government at Expo 2020 Dubai.

*Proposals should include the following components:*

1. Pavilion Theme Statement (2 pages max) explains design, components and content of the USA Pavilion in accordance with the Mobility sub-theme and the Expo 2020 Dubai Theme Guide.

2. Fundraising plan (3 pages)—How and when does the organization plan to reach the fundraising goals to cover the project? How does the organization plan to make use of sponsorship agreements to fund specific exhibits or the overall pavilion?

3. Project Management Plan (3 pages) that explains how the organization plans to accomplish all the tasks listed in the Project Management section. This plan should include specifics, including whether the organization plans to compete the different elements to sub-contractors, or if they plan to fulfill them in-house, and the process for each. This action plan should include the following sections:

a. Design of the USA Pavilion architecture and interior;

b. Construction procurement process; and

c. Disassembly and legacy (future use of the pavilion structure or exhibits).

4. Pavilion Designs (10 pages) A maximum of 5 conceptual designs of the proposed pavilion architecture and a maximum of 5 conceptual designs of the proposed interior fit-out.

5. Proposed Staffing Plan (3 pages) for management and staff before and during the expo, including envisioned Student Ambassador and Exchange Alumni programs. Provide biographic summaries of no more than one paragraph each of the architect, curator, designer, project manager, fundraiser, chief financial officer, and all other key personnel involved in the project.

6. Multi-year Operating Budget (4 pages) (narrative and chart in USD). A budget narrative should include an explanation of how the estimates were created (including but not limited to cost price analysis or past experience) for the major cost centers of the project. The operating budget should explain how early-stage operations of the project will be sustained prior to attaining major gifts and projected cash flow.

7. Track record (2 pages) of the organization's past fundraising and project management successes, a description of its resources, capabilities, key staff and their qualifications.

8. Timeline (3 pages) of the entire project.

9. Work Samples (5 pages) Submit up to 10 images of past architectural and design work.

*Proposals must commit to:*

- Adhere to the regulations and rules of Expo 2020 as stipulated by the Expo organizers (see participant guides), including restrictions and limitations related to construction;

- Consult closely with and follow the guidance of the U.S. Commissioner General, Expo Unit, and their designated representatives at the U.S. mission to the UAE;

- Operate in a transparent and financially responsible manner. This includes allowing the Commissioner General and Expo Unit insight into the budget and reporting on finances on a regular basis, with oversight of the Expo Unit, and seeking prior consultation before any expenditure or changes in budget line items greater than \$50,000.

- Submit all contracts or sub-contracts contemplated to be awarded by the proposer to further the purposes of the USA pavilion that are in excess of \$50,000 for review by the Expo Unit prior to their conclusion.

- Proposals should state clearly that all materials developed specifically for the project will be subject to prior review and approval by the Department.

- Proposals should state clearly that all fundraising plans, processes, and marketing materials will be subject to prior review and approval by the Department, including the need to have all potential donors vetted and approved by the Department.

#### 2. Application Deadline and Methods of Submission

##### Application Deadline

*Application Deadlines:* April 17, 2018.

##### Submitting Applications

Responses must be submitted electronically and in hard copy.

An electronic version of the proposal submission must be sent to *expo@state.gov*. Please include "Expo 2020 Proposal—[Entity Name]" in the email subject field. The Expo Unit will acknowledge receipt of an electronic proposal.

Proposal submissions must also be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but



received by the Expo Unit more than seven calendar days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to the Expo Unit via the internet. The Expo Unit will not notify you upon receipt of a hard copy proposal. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Ten copies of the application should be sent to: U.S. Department of State, Ref.: Expo 2020 Dubai RFP, 2201 C Street NW, R/FO, Room 5932, Washington, DC 20520.

#### IV. Application Review Information

##### *Review Process*

The Expo Unit will review all proposals for technical eligibility. Proposals will be deemed ineligible if they are not submitted by a U.S. citizen, U.S.-corporation, or U.S.-based organization and do not fully adhere to the General Regulations of the Expo 2020 Dubai and the guidelines stated herein.

Eligible proposals will be subject to compliance with Federal and Department regulations and guidelines. A panel of U.S. Government employees will review eligible proposals. Proposals may also be reviewed by the Office of the Legal Adviser or by other elements in the State Department and the U.S. Department of Commerce. The decision about which proposal demonstrates the greatest likelihood of achieving the goals of the project will be at the sole discretion of the Under Secretary of State for Public Diplomacy and Public Affairs.

##### *Review Criteria*

Technically-eligible proposals will be reviewed and scored out of 100 points, according to the criteria stated below:

##### 1. Pavilion Concept—15 points

a. Architectural and Design Merit, including how the pavilion will educate and inform foreign audiences about the United States and its people and promote broad U.S. commercial interests, as well as how specifically it will address the theme and sub-themes of Expo 2020 Dubai.

##### 2. Fundraising Plan—35 points

a. Fundraising, including proposed plan, timeline, resources on hand, as well as potential to find and engage potential sponsors, manage sponsor relationships, and fulfill sponsorship agreements. The successful proposer must demonstrate to the Department that it can raise the funds necessary to complete the USA Pavilion project and has past fundraising success in completing time-bound, multi-year, multi-million dollar campaigns.

##### 3. Operational Plan—10 points

a. Design, Build, Remove, including plans to project manage the pavilion.

b. Operational Plan, including program management and operational staffing before and during the Expo 2020.

c. Expenditure, including summary and line-item budget.

##### 4. Communications and Cultural Programming—15 points

a. Proposed Domestic and International Outreach in advance of and during the Expo to raise awareness of U.S. participation in Dubai Expo 2020 and amplify exhibit messages and partners.

b. Proposed Cultural Programming Events and programs that represent the diversity of America including potential linkages to existing State Department educational and cultural programs that could run parallel to or in conjunction with the USA Pavilion.

c. Virtual Presence and Engagement of the USA Pavilion before and during the Expo.

##### 5. Institutional Capacity—15 points

a. Program Management for design and build, and design and operation of temporary cultural and commercial exhibitions.

b. Architectural and Design Excellence, including quality and significance of the architects, curators, organizations, designs or services that the project will involve; record of professional activity and achievement by individuals/organizations involved; ability to monitor and measure the effectiveness and impact of the exhibition.

##### 6. Regional Experience and Partnerships—10 points

a. Strategic Partners and Legacy Use, including how the USA Pavilion fits in to the strategic plans of partners for their regional engagement and expansion and reflective of past regional experience.

b. Monitoring and Project Evaluation Plan, a plan to measure the impact of

the proposed U.S. exhibition, and cultural and information programs.

#### V. Administration Information

**Selection Notices:** All applicants will receive a decision notification from the Expo Unit.

**Project Launch and Construction & Participation Phases:** There are two phases to the project. The first phase (Project Launch) will begin by the Department issuing a Letter of Intent to the selected proposer authorizing that entity to proceed with fundraising to complete the project. The letter will include guidelines on fundraising and will establish a deadline for completion of fundraising activities. The second phase (Construction & Participation) can begin once the successful proposer is able to demonstrate that all funding required for the project is available. A Memorandum of Agreement (MOA) between the successful proposer and the Department will be concluded and the Department will conclude a Participation Contract with the Expo organizing body.

##### *Reporting Requirement for Selected Organization*

The successful proposer must provide the Expo Unit with an electronic and hard copy original plus two copies of the following reports:

1. Program and financial reports every 45 (forty-five) calendar days after the signature of the Memorandum of Agreement.

2. Final program and financial reports no more than 90 (ninety) calendar days after the scheduled April 10, 2021, closing of Expo 2020 Dubai.

#### VI. Agency Contacts

For questions about this announcement, contact [Expo@state.gov](mailto:Expo@state.gov). Correspondence with the Expo Unit concerning this Request for Proposals (RFP) should reference Expo 2020 Dubai RFP in the subject line.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFP deadline for submission of proposals has passed, Expo Unit staff may not discuss this competition with applicants until the proposal review process has been completed.

#### VII. Other Information

##### *Notice*

The terms and conditions published in this Request for Proposals are binding and may only be modified in writing. Issuance of this RFP does not constitute an intention to agree to work with any private sector exhibitor at Expo 2020 Dubai. The Under Secretary for Public



Diplomacy and Public Affairs reserves the right to select the U.S. private sector partner for Expo 2020 Dubai and to approve all elements of the Pavilion and project. Decisions made based on proposals submitted in response to this RFP will be made in the sole discretion

of the Under Secretary for Public

Diplomacy and Public Affairs and will be final.

**I. Steven Goldstein,**

*Under Secretary of State, Public Diplomacy and Public Affairs, Department of State.*

**Annex: Theme Statement (max 2 pages)**

Title	Title of the exhibition
Exhibition Goals .....	The overall goals of the exhibition and the key messages that the Pavilion aims to communicate to the visitors.
Thematic Concept .....	A clear and comprehensive presentation of how the exhibition content relates to the theme and subthemes of Expo 2020 Dubai.
Content Descriptions .....	A well-described statement for the exhibition content based on the theme and subthemes: What are the main messages that the exhibition will convey to the visitors? How will the visitors experience and interact with the content? What will the visitors take away when they leave the pavilion?
Educational Program .....	A conceptual description of the educational programs and opportunities that will be offered to the visitors as part of the exhibition.
Architecture and Design .....	A preliminary overview of the design of the pavilion and exhibition areas indicating how the chosen theme and topics are creatively integrated into the space. Participants should also indicate how they plan to showcase America's unique identity, culture, and diversity in the design.
Operations .....	A preliminary description of how the theme and chosen subthemes are integrated into the pavilion operations.
List of Materials .....	A preliminary list of the types of materials that will be used in the exhibition (such as objects, artifacts, and media).
Retail .....	A summary of the plan regarding the products (both culinary and commercial) that the proposer will promote during the event. Proposers should clearly indicate how the retail activity captures and incorporates the theme and subthemes
Legacy Use .....	Description of the pavilion's legacy use and its incorporation into pavilion partners' regional presence and engagement strategies.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2002-11809]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on January 29, 2018, the North County Transit District (NCTD) petitioned the Federal Railroad Administration (FRA) for an extension of its existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained. FRA assigned the petition docket number FRA-2002-11809.

In its petition, NCTD seeks to extend the relief granted in its existing shared use waiver, which was originally granted by FRA's Railroad Safety Board (Board) on May 1, 2003; modified in 2006; and extended and modified in 2013. This shared use waiver applies to operation of the SPRINTER rail fixed guideway transit system between Oceanside, California, and Escondido, CA over the BNSF Railway's (BNSF) Escondido Subdivision. SPRINTER operates for 22 miles with temporal separation from the Pacific Sun Railroad which is contracted by BNSF. The

exclusive passenger period is from 3:45 a.m. until 9:45 p.m. Sunday through Thursday, and 3:45 a.m. until 12:00 a.m. (midnight) Friday through Saturday.

NCTD continues to seek relief from 49 CFR part 210, *Railroad Noise Emission Compliance Regulations*; part 217, *Railroad Operating Rules*; part 219, *Control of Alcohol and Drug Use*; part 221, *Rear End Marking Device-Passenger, Commuter, and Freight Trains*; sections 223.9(c), 223.9(d), 223.15(c), and 223.17 of the *Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses*; part 228, *Hours of Service of Railroad Employees; Recordkeeping and Reporting; Sleeping Quarters*, where applicable for operators only; part 231, *Railroad Safety Appliance Standards*; part 238, *Passenger Equipment Safety Standards*; part 239, *Passenger Train Emergency Preparedness*; part 240, *Locomotive Engineer Certification*. NCTD continues to seek partial relief from 49 CFR part 225, *Railroad Accidents/Incidents: Reports Classification, and Investigations*, except with regard to reporting train and highway-rail grade crossing accidents to FRA, as employee injuries may be reported under Federal Transit Administration (FTA) or Occupational Safety and Health Administration rules; and relief from part 229, *Railroad locomotive safety*

*standards*, except from sections 229.125(a)–(f).

In its petition, NCTD states there have been no deficiencies with its operation since the last approval in 2013 and that NCTD, Pacific Sun Railroad, and the California Public Utilities Commission (CPUC) have continually interfaced with FRA Regional staff to monitor safety.

CPUC is the State Safety Oversight Agency (SSOA) providing equivalent safety oversight in accordance with the terms and conditions set forth in FTA regulations at 49 CFR part 659, *Rail Fixed Guideway State Safety Oversight*, in CPUC General Order 164-D, *Rules and regulations Governing State Safety Oversight of Rail Fixed Guideway Systems*, and in CPUC General Order 143-B, *Design, Construction and Operation of Light Rail Transit Systems*.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in

connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 2, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

**Robert C. Lauby,**  
Associate Administrator for Railroad Safety,  
Chief Safety Officer.

[FR Doc. 2018-03210 Filed 2-15-18; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2018-0015]

#### Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that on January 21, 2018, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA-2018-0015.

*Applicant:* Norfolk Southern Corporation, Mr. B. L. Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE, Atlanta, GA 30309.

NS seeks to discontinue the existing signal location at milepost (MP) SC-127.5 on the Charleston District, Piedmont Division, at the west end of Andrews Yard, Columbia, SC. The existing positive signal, MP SC127.5, will be retired from service. A new crossover will be installed from the SC mainline to the yard track lead to allow trains to enter and exit the yard from multiple tracks. The existing westbound automatic signal located at MP SC-128.1 will become a positive signal and govern movements out of the yard per NS rules. The existing eastbound automatic signal at MP SC 128.0 will be removed from service.

NS states the reason for the proposed change is to increase efficiency of yard operations at the expanded west end of the yard and expedite train movements in and out of the yard.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 2, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

**Robert C. Lauby,**  
Associate Administrator for Railroad Safety,  
Chief Safety Officer.

[FR Doc. 2018-03211 Filed 2-15-18; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Investment Securities

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal

agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, "Investment Securities." The OCC also is giving notice that it has sent the collection to OMB for review.

**DATES:** You should submit written comments by March 19, 2018.

**ADDRESSES:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0205, 400 7th Street SW, Suite 3E-218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov). You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0205, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC requests that OMB extend its approval of this collection.

*Title:* Investment Securities.

*OMB Control No.:* 1557-0205.

*Description:* Under 12 CFR 1.3(h)(2), a national bank may request an OCC determination that it may invest in an entity that is exempt from registration under section 3(c)(1) of the Investment Company Act of 1940<sup>1</sup> if the portfolio of the entity consists exclusively of assets that a national bank may purchase and sell for its own account. The OCC uses the information contained in the request as a basis for ensuring that the bank's investment is consistent with its investment authority under applicable law and does not pose unacceptable risk.

Under 12 CFR 1.7(b), a national bank may request OCC approval to extend the five-year holding period for securities held in satisfaction of debts previously contracted for up to an additional five years. In its request, the bank must provide a clearly convincing demonstration of why any additional holding period is needed. The OCC uses the information in the request to ensure, on a case-by-case basis, that the bank's purpose in retaining the securities is not speculative and that the bank's reasons for requesting the extension are adequate. The OCC also uses the information to evaluate the risks to the bank of extending the holding period, including potential effects on the bank's safety and soundness.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit.

*Estimated Number of Respondents:* 25.

*Estimated Total Annual Burden:* 460 hours.

*Frequency of Response:* On occasion.

*Comments:* The OCC issued a notice for 60 days of comment regarding this collection on November 21, 2017, 82 FR 55487. The OCC received one comment from an individual.

The comment related to 12 CFR 1.7(b). Twelve CFR 1.7(b) provides that a bank may hold securities in satisfaction of debts previously

contracted for a period of five years and permits the OCC to extend the holding period up to an additional five years if the bank provides a clearly convincing demonstration as to why an additional holding period is needed.

The commenter stated that banks should rarely need to hold securities in satisfaction of debts previously contracted longer than five years. The commenter requested that the OCC conduct a retrospective analysis on the need, fairness, and appropriateness of the text in 12 CFR 1.7(b) that permits the OCC to extend the holding period beyond five years. The commenter stated that this retrospective analysis would enable the OCC to narrow the requirements for an extended holding period and to specify in 12 CFR 1.7(b) the rare and unusual reasons why banks may need more than five years to dispose of a security. The commenter further stated that 12 CFR 1.7(b) currently encourages banks to speculate on securities acquired in satisfaction of debts previously contracted.

In response to this comment, the OCC notes that the OCC cannot rescind regulations through the PRA renewal process. Moreover, as part of the OCC's ten-year regulatory review required under by section 222 of the Economic Growth and Regulatory Paperwork Reduction Act ("EGRPRA"), the OCC issued notices soliciting comments on all OCC regulations, including 12 CFR part 1.<sup>2</sup> The OCC did not receive any comments regarding 12 CFR part 1 in response to the relevant OCC notice. The OCC therefore did not propose any revisions to Part 1 in connection with the review required under EGRPRA. Furthermore, the text of 12 CFR 1.7(d) explicitly states that banks may not hold securities under 12 CFR 1.7 for speculative purposes. Finally, 12 CFR 1.7(b) makes clear that the burden is on the bank to provide "a clearly convincing demonstration as to why an additional holding period is needed." In light of the prohibition on holding securities acquired under 12 CFR 1.7 for speculative purposes, as well as the high standard that a bank must meet to receive an extended holding period under 12 CFR 1.7(b), the OCC does not believe that a retrospective analysis on the need, fairness, and appropriateness of the text in 12 CFR 1.7(b) is warranted at this time.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper

<sup>2</sup> See Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 79 FR 32172, 32178 (Jun. 4, 2014).

<sup>1</sup> 15 U.S.C. 80a-3(c)(1).

performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 12, 2018.

**Karen Solomon,**

*Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.*

[FR Doc. 2018-03253 Filed 2-15-18; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the annual meeting of the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will be held April 11-13, 2018, at the Tampa Hilton Downtown, 211 North

Tampa Street, Tampa Florida. The meeting sessions are open to the public and are scheduled as follows:

Dates:	Time:
April 11, 2018 .....	8:00 a.m. to 11:30 a.m.
April 12, 2018 .....	8:30 a.m. to 4:30 p.m.
April 13, 2018 .....	8:30 a.m. to 3:45 p.m.

The Committee, comprised of 51 national voluntary organizations, advises the Secretary, through the Office of the Under Secretary for Health, on the coordination and promotion of volunteer activities and strategic partnerships within VA facilities, in the community, and on matters related to volunteerism and charitable giving. The purposes of this meeting are: to provide for Committee review of volunteer policies and procedures; to accommodate full and open communications between organization representatives and the Voluntary Service Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, place, motivate, and recognize volunteers; and to provide Committee recommendations. The April 11, session will include a National Executive Committee Meeting, Health and Information Fair, and VAVS Representative and Deputy Representative training session. The April 12, business session will include welcoming remarks from local officials, and remarks by VA officials on new and ongoing VA initiatives and priorities.

The recipients of the American Spirit Recruitment Awards, VAVS Award for Excellence, and the NAC male and female Volunteer of the Year awards will be recognized. Educational workshops will be held in the afternoon and will focus on building the Episodic Volunteer Workshop, S.A.V.E Training—Suicide Prevention, Voluntary Service System, new timekeeping system to track and manage volunteer hours, and a writing workshop. On April 13, the morning business session will include subcommittee reports, the Voluntary Service Report, NAC Chair Report, and remarks by VA officials on new and ongoing VA initiatives and priorities. The educational workshops will be repeated in the afternoon. No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Committee's review to Ms. Sabrina C. Clark, Designated Federal Officer, Voluntary Service Office (10B2A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC, 20420, or by email at [Sabrina.Clark@va.gov](mailto:Sabrina.Clark@va.gov). Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Clark at (202) 461-7300.

Dated: February 13, 2018.

**Jelessa M. Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2018-03265 Filed 2-15-18; 8:45 am]

**BILLING CODE P**

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